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**United States**  
**Circuit Court of Appeals**  
**For the Ninth Circuit.**

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M. F. HALL,

Plaintiff in Error,

vs.

THE UNITED STATES OF AMERICA,

Defendant in Error.

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**Transcript of Record.**

---

Upon Writ of Error to the United States District Court  
of the Territory of Alaska, Fourth Division.

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**Filed**

FEB 10 1916

**F. D. Monckton,**

**Clerk.**



**United States**  
**Circuit Court of Appeals**  
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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur. Title heads inserted by the Clerk are enclosed within brackets.]

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**Names and Addresses of Attorneys of Record.**

R. F. ROTH, Attorney for Plaintiff and Appellee,  
Fairbanks, Alaska.

LEROY TOZIER, Attorney for Defendant and Appellant,  
Fairbanks, Alaska. [1\*]

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*In the District Court for the Territory of Alaska,  
Fourth Division.*

No. 689—CR.

UNITED STATES OF AMERICA,  
Plaintiff,  
vs.

M. F. HALL,  
Defendant.

**Praecipe for Transcript of Record.**

The Clerk of the court will please prepare and certify a copy of the record in this action as follows:

1. The indictment.
2. The bill of exceptions complete.
3. All journal entries connected with the trial, including the final judgment.
4. All papers connected with the writ of error, except the writ of error, the citation, order or orders extending time in which to file transcript in the Appellate Court, and the stipulation, if any, in regard to printing record. The last-mentioned papers, being entitled in said Appellate Court, are to be forwarded to and filed there.

LEROY TOZIER,  
Attorney for Defendant.

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\*Page-number appearing at foot of page of original certified Record.

Service and receipt of copy admitted this 5th day of October, 1915.

R. F. ROTH,  
United States District Attorney.

[Endosed]: In the District Court Territory of Alaska, Fourth Division. United States of America v. M. F. Hall. Praeipie for Transcript of Record. Filed in the District Court, Territory of Alaska, 4th Div. Oct. 5, 1915. J. E. Clark, Clerk. By Sidney Stewart, Deputy. [2]

---

[Caption of Appellate Court and Title.]

**Stipulation as to Printing Record.**

It is stipulated between the attorneys for the parties respectively, that in printing the record in this case for use in the said court, all captions should be omitted after the title of the cause has been once printed, and the words "Caption and Title" and the name of the paper or document should be substituted therefor; also that after printing the indorsements and file-marks on the indictment, bill of exceptions, record in the Appellate Court, the indorsements other than file-marks on all other papers should be omitted, and the word "Indorsements" printed in lieu thereof.

All other parts of the record should be printed.

Dated October 6 1915.

LEROY TOZIER,  
Attorney for Plaintiff in Error.

R. F. ROTH,  
United States District Attorney,  
For Defendant in Error.



[Indorsed]: Filed in U. S. District Court, Oct. 6, 1915. [3]

[Caption and Title.]

**Indictment.**

M. F. HALL is accused by the Grand Jury of the Territory of Alaska, Fourth Division, convened at Fairbanks for the March term of the District Court, in the year of our Lord one thousand nine hundred and fifteen, by this indictment of the crime of assault, committed as follows, to wit:

That the said M. F. Hall, on the 24th day of September, A. D. 1914, at the town of Fairbanks, in the Fairbanks Precinct, Fourth Judicial Division, Territory of Alaska, and within the jurisdiction of this court, not being armed with a dangerous weapon, did then and there unlawfully assault one, Selma Lappi, by then and there unfastening some of the underclothing of the said Selma Lappi and then and there placing his hand upon the private parts of the body of the said Selma Lappi, the said Selma Lappi being then and there a female child of the age of nine years and he, the said M. F. Hall, being then and there a male person over the age of twenty-one years, contrary to the form of the statute in such case made and provided, and against the peace and dignity of the United States of America.

Dated at Fairbanks in the Division and Territory

aforesaid this 19 day of March, A. D., 1915.

R. F. ROTH,

United States Attorney.

By \_\_\_\_\_,

Assistant U. S. Attorney.

———A true bill.

J. D. REAGH,

Foreman.

The following witnesses were examined before the Grand Jury upon the finding of the foregoing indictment:

MRS. JOHN LAPPI,

SELMA LAPPI. [4]

[Indorsed]: No. 689—Cr. In the District Court for the Territory of Alaska. United States of America, Plaintiff, vs. M. F. Hall, Defendant. Indictment for the Crime of Assault. A true bill. Secret. Presented to the Court by the foreman of the Grand Jury in open Court in the presence of the Grand Jury, and filed in the District Court, Territory of Alaska, Fourth Division. Fairbanks, Alaska, March 19, 1915. Angus McBride, Clerk. By P. R. Wagner, Deputy. Filed in the District Court, Territory of Alaska, 4th Div. March 19, 1915. Angus McBride, Clerk. [5]

---

[Caption and Title.]

General March, 1915, Term. Friday, March 19, 1915. Sixteenth Court Day.

**Order for Bench Warrant.**

The Grand Jury having on this day returned in-

dictment against the above-named defendant, for the crime of assault, now, upon application of R. F. Roth, United States Attorney;

IT IS ORDERED that the clerk of this court issue a bench warrant for the arrest of the said defendant and that bail be, and the same is, hereby fixed at Five Hundred Dollars (\$500).

CHARLES E. BUNNELL,  
District Judge.

Entered in Court Journal No. 13, page 81. [6]

---

[Caption and Title.]

**[Bail] Bond.**

An indictment having been found on the 19th day of March, 1915, in the District Court for the Territory of Alaska, Fourth Div., charging M. F. Hall with the crime of assault and he having been duly admitted to bail in the sum of Five Hundred Dollars.

We, H. L. Hedger, of Fairbanks, Alaska, by profession, a dentist and W. Frank Whitely of the same place by occupation, a broker, hereby undertake that the above-named M. F. Hall will appear and answer the above-named charge in whatever court it may be prosecuted and shall at all times render himself amenable to the orders and process of the Court and if convicted shall appear for judgment and render himself in execution thereof or if he failed to perform either of those conditions we will pay to the United States the sum of Five Hundred Dollars.

H. L. HEDGER,  
W. F. WHITELY. [7]

United States of America,  
Territory of Alaska,—ss.

H. L. Hedger and W. Frank Whitley, being first duly sworn, on oath, each for himself, says that he is a resident of the Territory of Alaska; that *he not* a marshal, deputy marshal, commissioner, clerk of the court or other officer of any court and that he is worth the sum of Five Hundred Dollars over and above all his debts and liabilities and exclusive of property exempt from execution.

H. L. HEDGER,  
W. F. WHITELEY.

Subscribed and sworn to before me this 19th day of March, 1915.

[Seal]

T. A. MARQUAM,  
Notary Public for Alaska,

My commission expires Dec. 20, 1918.

The foregoing bond is approved this 19th day of March, 1915.

CHARLES E. BUNNELL,  
District Judge.

[Endorsed]: Filed March 19, 1915. [8]

---

[Caption and Title.]

General March, 1915 Term. Friday March 19, 1915.  
Sixteenth Court Day.

**Order Approving [Bail] Bond.**

Now at this time, the bail bond in the above-entitled cause being presented in open court by T.



A. Marquam, attorney for the defendant and R. F. Roth, United States Attorney, not objecting to the sureties thereon,

IT IS ORDERED that the said bond be, and the same is, hereby approved.

CHARLES E. BUNNELL,

District Judge.

Entered in Court Journal No. 13, page 81. [9]

---

[Caption and Title.]

**Order of Discharge of Defendant from Custody.**

To the United States Marshal, Fourth Division,  
Alaska,

M. F. Hall, the above-named defendant, whom you have in your custody upon a charge of assault having given sufficient bail to answer the same, you are hereby directed to forthwith discharge him from your custody.

Dated at Fairbanks, Alaska, this 19th day of March, 1915.

CHARLES E. BUNNELL,

District Judge.

Entered in Court Journal No. 13, page 81.

[Endorsed]: Filed March 19, 1915. [10]

---

[Caption and Title.]

General March, 1915 Term. Friday March 19, 1915.

Sixteenth Court Day.

**Order Setting Time for Arraignment.**

An indictment having been presented by the

Grand Jury against the defendant herein, charging him with the crime of assault,

IT IS ORDERED that the said defendant be, and appear in open court for arraignment on Monday, March 22, 1915, at 10:00 A. M.

CHARLES E. BUNNELL,

District Judge.

Entered in Court Journal No. 13, page 81. [11]

---

[Caption and Title.]

General March, 1915, Term. Monday, March 22, 1915.

**Arraignment.**

Now, on this day, came the United States Attorney, R. F. Roth, came also the defendant in person and being represented by his attorney, T. A. Marquam, and this being the time set for the arraignment of said defendant, he was brought to the bar of this court, and being asked if he is indicted by his true name, and answering that he is, the indictment herein was read to the defendant by the clerk of the court, under the direction of the Court, and a copy of said indictment including a list of the witnesses appearing before the Grand Jury for the purpose of this indictment being delivered to him; whereupon the Court set Wednesday, March 24, 1915, at 10:00 A. M., as the time for defendant to enter his plea herein.

CHARLES E. BUNNELL,

District Judge.

Entered in Court Journal No. 13, page 84. [12]

[Caption and Title.]

**Demurrer.**

Comes now the defendant and demurs to the indictment herein for the following reasons, to wit:

(I)

That said indictment does not substantially conform to the requirements of Chapter Seven, Title XV of the code of criminal procedure for Alaska, in that:

(a) The said indictment does not contain a statement of the facts constituting the alleged offense attempted to be charged therein, in ordinary and concise language and in such a manner that a person of common understanding is enabled to understand what was intended.

(b) That the indictment is not direct and certain as it regards the crime charged.

(c) That said indictment is not direct and certain as it regards the particular circumstances of the crime attempted to be charged.

(II)

That the facts stated in said indictment do not constitute a crime.

T. A. MARQUAM,

Of Counsel for Defendant. [13]

SERVICE of the foregoing demurrer admitted and a true copy thereof received this 24th day of March, 1915.

R. F. ROTH,

Attorney for Plaintiff.

[Indorsed]: Filed March 24, 1915. [14]

[Caption and Title.]

General March, 1915, Term. Wednesday, March 24,  
1915. Twentieth Court Day.

**Order Overruling Demurrer.**

Now, on this day, came on for hearing defendant's demurrer to the indictment herein, the defendant appearing in person and with his attorney, T. A. Marquam; R. F. Roth, United States Attorney, appearing in behalf of plaintiff, and said demurrer being submitted without argument, and the Court being fully and duly advised in the premises.

IT IS ORDERED that said demurrer be, and the same is hereby overruled.

CHARLES E. BUNNELL,

District Judge.

Entered in Court Journal No. 13, page 90. [15]

---

[Caption and Title.]

General March, 1915, Term. Wednesday, March 24,  
1915. Twentieth Court Day.

**Plea of not Guilty.**

Now, on this day, came the United States Attorney, R. F. Roth, came also the defendant in person and being represented by his attorney, T. A. Marquam, defendant having on a prior day of this term been duly indicted and arraigned, and this being the time set for said defendant to enter his plea herein, and now being asked by the Court if he is guilty or not guilty of the crime charged against him in the indictment, namely, that of "Assault," to which the de-



fendant pleads that he is "Not Guilty," and therefore puts himself upon the country and the United States Attorney for and in behalf of the Government doth the same,

CHARLES E. BUNNELL,

District Judge.

Entered in Court Journal No. 13, page 90. [16]

---

[Caption and Title.]

General March, 1915, Term. Wednesday, March 24, 1915. Twentieth Court Day.

**Order Continuing Matter of Setting Cause for Trial.**

Now at this time, the defendant, by his attorney T. A. Marquam, moves the Court that the matter of setting the above-entitled cause for trial be continued, R. F. Roth, United States Attorney, not objecting thereto,

IT IS ORDERED that the matter of setting said cause for trial be, and the same is hereby continued until Monday, March 29, 1915, at 10:00 A. M.

CHARLES E. BUNNELL,

District Judge.

Entered in Court Journal No. 13, page 90. [17]

---

[Caption and Title.]

General March, 1915, Term. Monday, March 29, 1915. Twenty-fourth Court Day.

**Order Setting Cause for Trial [on April 10, 1915].**

Now on this day, this being the time for setting

said cause for trial, R. F. Roth, United States Attorney appearing in behalf of plaintiff, T. A. Marquam, in behalf of defendant;

And it is now ORDERED that said cause be, and the same is, hereby set for trial April 10, 1915, at 10:00 A. M.

CHARLES E. BUNNELL,  
District Judge.

Entered in Court Journal No. 13, page 100. [18]

---

[Caption and Title.]

General March, 1915, Term. Saturday, April 10, 1915. Thirty-fifth Court Day.

**Order Setting Cause for Trial [After Case No. 665].**

Now on this day, IT IS ORDERED, that the trial of above-entitled cause be, and the same is hereby set for trial to follow the trial of Cause No. 665—Cr., United States of America vs. Katie Pinchetti.

CHARLES E. BUNNELL,  
District Judge.

Entered in Court Journal No. 13, page 114. [19]

---

**[Minutes of Trial, April 16, 1915.]**

[Caption and Title.]

General March, 1915, Term. Friday, April 16, 1915.  
Fortieth Court Day.

**TRIAL BY JURY.**

Now on this day, this cause came on regularly for trial by jury, R. F. Roth, United States Attorney, appearing for and on behalf of plaintiff, the defend-

ant appearing in person and by his attorneys, T. A. Marquam and M. E. Stevens, and both sides announcing themselves ready for trial, the following proceedings were had, to wit:

On the Court's own motion, and there being no objections on the part of the prosecution or defense, the Court ordered, that all such persons of the general public not properly having business before the Court, be excluded from the courtroom during the trial of this cause.

Thereupon the clerk proceeded to withdraw from the trial jury-box, one at a time, the ballots containing the names of the members of the regular panel of petit jurors, and the respective attorneys examined said jurors and exercised their challenges against said jurors so drawn, said jurors so drawn to try the issues in this cause being as follows, to wit:

H. Buzby, John Perlenda, Ed Hering, A. W. Van Sant, James Kirk, P. J. Wenn, Daniel Jacobson,

Thereupon John Solen and S. T. Kincaid, were duly sworn as bailiffs during the formation of the jury and the pendency of the trial.

Further proceedings were continued until 2:00 P. M. this day.

CHARLES E. BUNNELL,  
District Judge.

Entered in Court Journal No. 13, page 123. [20]

**[Minutes of Trial, April 16, 1915.]**

Fortieth Court Day.

[Caption and Title.]

General March, 1915, Term. Friday, April 16, 1915.

**TRIAL BY JURY CONTINUED.**

Now at this time, at 2:00 P. M., the trial of said cause was resumed, the jurors heretofore drawn and accepted, the members of the regular panel of petit jurors, the defendant and attorneys being presented as heretofore,

The clerk thereupon proceeded to draw from the trial jury-box, one at a time, the ballots containing the names of the regular panel of petit jurors, and the respective attorneys examined said jurors and exercised their challenges against said jurors so drawn; the jurors so examined and accepted at this time being as follows, to wit:

E. W. Blakely, Daniel McCabe, A. H. Keller, and A. C. Wolf.

The Court admonished the jurors drawn, and further proceedings were continued until to-morrow at 10:00 A. M.

CHARLES E. BUNNELL,  
District Judge.

Entered in Court Journal No. 13, page 124. [21]



**[Minutes of Trial, April 17, 1915.]**

[Caption and Title.]

General March, 1915, Term. Saturday, April 17,  
1915. Forty-first Court Day.

**TRIAL BY JURY CONTINUED.**

Now, on this day, this cause came on for continuance of trial, the jurors heretofore drawn and accepted, the remaining members of the regular panel of petit jurors, the defendant and respective attorneys, being present as heretofore, and the following proceedings were had, to wit:

The clerk proceeded to draw from the trial jury-box the ballots containing the names of the remaining members of the regular panel of petit jurors, until the ballots were exhausted and the jury incomplete; whereupon the Court directed the clerk to issue a writ of special venire directed to the United States Marshal, commanding him to summon from the body of the district ten (10) men qualified to sit and serve as jurors in this court and cause, said venire returnable at 1:30 P. M. this day.

Court admonished the jurors drawn and further proceedings were continued until 1:30 P. M.

Court declared recess until 1:30 P. M.

Thereafter, at 1:30 P. M., the trial of said cause was resumed, all parties appearing as heretofore.

The Marshal returned into Court the special venire and the members thereof each answering to his name as present, the clerk proceeded to draw from the trial

jury-box one at a time, the ballots containing the names of said special venire, and the respective attorneys exercised their challenges and examined said members so drawn, until the panel was complete, consisting of the following persons, to wit: [22]

H. Buzby,	Daniel Jacobson,
John Perlenda,	E. W. Blakely,
Ed Hering,	Daniel McCabe,
A. W. Van Sant,	A. H. Keller,
James Kirk,	A. C. Wolfe,
P. J. Wenn,	R. T. Blakely,

which said jury was duly sworn to try the issues in this cause.

Opening statement was had by R. F. Roth, United States Attorney, followed by statement of T. A. Marquam in behalf of defendant.

Whereupon the Court ordered that all witnesses, when not testifying, be, and they were excluded from the courtroom.

Selma Lappi was duly sworn and testified in behalf of plaintiff.

The Court admonished the jury, which jury remained in charge of their sworn bailiffs, and further proceedings were continued until Monday, April 19, 1915, at 10:00 A. M.

CHARLES E. BUNNELL,  
District Judge.

Entered in Court Journal No. 13, page 124. [23]

[Caption and Title.]

**Order for Special Venire for Trial Jurors.**

And now, to wit, April 17, 1915, this action being called for trial and the clerk having drawn from the trial jury-box of the court the ballots containing the names of the regularly drawn and impaneled trial jurors until the ballots are exhausted and the jury is incomplete; therefore,

IT IS NOW HEREBY ORDERED: That the clerk of this court issue a writ of special venire, directed to the U. S. Marshal for this Division and Territory commanding him to summons from the body of the District ten (10) men qualified to sit as trial jurors in this court and case, to be and appear in the courtroom at 1:30 P. M. this day.

CHARLES E. BUNNELL,  
District Judge.

[Indorsed]: Filed April 17, 1915. [24]

---

**[Minutes of Trial, April 19, 1915.]**

[Caption and Title.]

General March, 1915, Term. Forty-second Court  
Day. Monday, April 19, 1915.

**TRIAL BY JURY CONTINUED.**

Now, on this day, this cause came on regularly for continuance of trial, the jury, the defendant, and respective attorneys appearing as heretofore.

Selma Lappi resumed the stand and testified in behalf of the plaintiff.

Mrs. John Lappi was duly sworn and testified in behalf of plaintiff.

The Court admonished the jury, which jury remained in charge of their sworn bailiffs, and further proceedings were continued until 2:00 P. M. this day.

Court declared recess at 2:00 P. M.

Thereafter, at 2:00 P. M., the trial of said cause was resumed, all parties appearing as heretofore.

Mrs. Selma Lappi resumed the stand and testified further in behalf of plaintiff.

Whereupon, upon motion of T. A. Marquam, attorney for defendant, and R. F. Roth, United States Attorney, not objecting thereto the Court, after admonishing the jury, continued further proceedings until to-morrow, at 10:00 A. M.

CHARLES E. BUNNELL,

District Judge.

Entered in Court Journal No. 13, page 126. [25]

---

**[Minutes of Trial, April 20, 1915.]**

[Caption and Title.]

General March, 1915, Term. Tuesday, April 20, 1915. Forty-third Court Day.

**TRIAL BY JURY CONTINUED.**

Now, on this day, this cause came on regularly for continuance of trial, the jury, the defendant, and respective attorneys appearing as heretofore.

The Court ordered that the jury retire in charge of their sworn bailiffs while a legal matter in this cause is argued by the respective attorneys; where-



upon said legal matter was argued by respective attorneys.

Court declared a recess until 2:00 P. M.

Thereafter, at 2:00 P. M., said arguments were resumed, the jury still being absent from the Courtroom.

And now, at 4:40 P. M., the jury returned into the courtroom, the defendant and respective attorneys being present as heretofore.

Charlotte Geis was duly sworn and testified in behalf of the plaintiff.

The Court admonished the jury, which jury remained in charge of their sworn bailiffs, and further proceedings were continued until to-morrow at 10:00 o'clock A. M.

CHARLES E. BUNNELL,

District Judge.

Entered in Court Journal No. 13, page 127. [26]

---

**[Minutes of Trial, April 21, 1915.]**

[Caption and Title.]

General March, 1915, Term. Wednesday, April 21, 1915. Forty-fourth Court Day.

**TRIAL BY JURY CONTINUED.**

Now, on this day, this cause came on regularly for continuance of trial, the jury, the defendant, and respective attorneys being present as heretofore.

R. F. Roth, United States Attorney, announced that the plaintiff rests.

Mrs. M. F. Hall was duly sworn and testified in behalf of defendant.

Dr. M. F. Hall was duly sworn and testified in his own behalf.

Court admonished the jury and further proceedings were continued until 1:30 P. M.

CHARLES E. BUNNELL,  
District Judge.

Entered in Court Journal No. 13, page 128. [27]

---

[Caption and Title.]

General March, 1915, Term. Wednesday, April 21,  
1915. Forty-fourth Court Day.  
1:30 P. M.

#### TRIAL BY JURY CONTINUED.

Now, at this time, the trial of said cause was resumed, all parties appearing as heretofore.

Dr. M. F. Hall resumed the stand and testified further in his own behalf.

Thomas Dundon was duly sworn and testified in behalf of defendant.

Defendant rests.

John Lappi was duly sworn and testified in behalf of plaintiff in rebuttal.

Mrs. A. J. Nordale was duly sworn and testified in behalf of plaintiff in rebuttal.

Mrs. John Lappi and Selma Lappi, in the order named, were recalled and testified in behalf of plaintiff in rebuttal.

The Court admonished the jury, and further pro-

ceedings were continued until 10:00 A. M. to-morrow.

CHARLES E. BUNNELL,

District Judge.

Entered in Court Journal No. 13, page 128. [28]

---

[Minutes of Trial, April 22, 1915.]

[Caption and Libel.]

General March, 1915, Term. Thursday, April 22, 1915. Forty-fifth Court Day.

TRIAL BY JURY CONTINUED.

Now, on this day, this cause came on regularly for continuance of trial, the jury, the respective attorneys and parties being present as heretofore, and the following proceedings were had, to wit:

John Lappi was recalled and testified further in behalf of plaintiff in rebuttal.

Dr. J. A. Sutherland and Mrs. P. J. Rickert, in the order named, were each duly sworn and testified in behalf of plaintiff in rebuttal.

Plaintiff rests.

Dr. M. F. Hall was recalled and testified in his own behalf in surrebuttal.

Defendant rests.

After opening argument by R. F. Roth, United States Attorney, in behalf of plaintiff, the jury was duly admonished by the Court, which jury remained in charge of their sworn bailiffs, and further proceedings were continued until 2:00 P. M. this day.

CHARLES E. BUNNELL,

District Judge.

Entered in Court Journal No. 13, page 129. [29]

**[Minutes of Trial, April 22, 1915.]**

[Caption and Title.]

General March, 1915, Term. Thursday, April 22,  
1915. Forty-fifth Court Day.

**TRIAL BY JURY CONTINUED.**

2:00 P. M.

Now, at this time, at 2:00 P. M., the trial of said cause was resumed, the jury the defendant and respective attorneys appearing as heretofore.

Argument was had by Mr. M. E. Stevens in behalf of defendant, followed by argument by T. A. Marquam in behalf of defendant, and closing argument by R. F. Roth, United States Attorney, in behalf of plaintiff.

The Court thereupon instructed the jury as to the law in the premises, and John Solen and S. T. Kincaid were duly sworn as bailiffs in charge of said jury, during their deliberation, whereupon said jury retired in charge of their sworn bailiffs to deliberate upon their verdict, at 6:00 P. M.

CHARLES E. BUNNELL,

District Judge.

Entered in Court Journal No. 13, page 130. [30]

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**[Minutes of Trial, April 22, 1915.]**

[Caption and Title.]

General March, 1915, Term. Thursday, April 22,  
1915. Forty-fifth Court Day.

**TRIAL BY JURY CONTINUED.**

8:35 P. M.

And now, at 8:35 P. M., came into court the jury



heretofore sworn to try the issues in said cause, and being called, all answered to their names as present, came also the United States Attorney, R. F. Roth, came likewise the defendant in person and with his attorneys, M. E. Stevens and T. A. Marquam, and said jury presented by and through their foreman, in open court, their verdict in said cause, which is in the words and figures as follows, to wit:

*“In the District Court for the Territory of Alaska,  
Fourth Judicial Division.*

No. 689—CR.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

M. F. HALL,

Defendant.

VERDICT.

We, the jury, duly empaneled and sworn to try the above-entitled action, do find the defendant M. F. Hall guilty as charged in the indictment.

Dated April 22, 1915.

DAN. McCABE,  
Foreman.”

—which said verdict was received by the Court and ordered filed with the clerk of the court, and the jury was discharged from further deliberation in this cause. The defendant was released on the bond already given in this cause, the time for sentence and judgment to be fixed later.

CHARLES E. BUNNELL,  
District Judge.

Entered in Court Journal No. 13, page 130. [31]

[Caption and Title.]

**Verdict.**

We, the jury, duly empaneled and sworn to try the above-entitled action, do find the defendant M. F. Hall guilty as charged in the indictment.

Dated April 22, 1915.

DAN McCABE,  
Foreman.

[Indorsed]: Filed April 22, 1915.

Entered in Court Journal No. 13, page 130. [32]

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[Caption and Title.]

**Affidavit in Support of Motion for a New Trial.**

United States of America,  
Territory of Alaska,—ss.

Morton E. Stevens, being duly sworn, on oath says: That he is one of the attorneys for the defendant in the above-entitled action; that he was present in the courtroom during the trial of said cause, and upon the last day of said trial was present during the whole time while the United States Attorney was making his opening and closing arguments to the jury; that during said opening argument Mr. R. F. Roth, United States Attorney, used the following language to and in addressing the jury:

“I believe that if there was ever a case proven beyond a reasonable doubt, and to an absolute mathematical certainty, this is the one.”

And that in the closing argument, the said United States Attorney, he used to, and in his address to the jury, the following language:

“Do you want to feed the babies of this community into the jaws of Doctor Hall?”

That these remarks of said United States Attorney were written down by affiant at the time they were made and contained the exact language used.

[Seal]

MORTON E. STEVENS.

Subscribed and sworn to before me this 24th day of April, 1915.

T. A. MARQUAM,

Notary Public for Alaska.

My commission expires July 20th, 1918. [33]

Service of the foregoing affidavit admitted and a true copy thereof received this 24 day of April, 1915.

H. E. PRATT,

Attorney for Plaintiff.

[Indorsed]: Filed April 24, 1915. [34]

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[Caption and Title.]

General March, 1915, Term. Monday, May 10, 1915.  
Sixtieth Court Day.

**Order Setting Hearing on Motion for New Trial.**

Now, on this day, came on the matter of setting the motion of defendant for a new trial and in arrest of judgment for hearing, the plaintiff being represented by G. Ellis Gardner, Assistant United States Attorney, the defendant appearing in person and by his attorney, T. A. Marquam; thereupon the Court set the motion for a new trial and in arrest of judg-

ment herein for hearing on Thursday, May 13, 1915,  
at 7:30 P. M.

CHARLES E. BUNNELL,

District Judge.

Entered in Court Journal No. 13, page 149. [35]

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[Caption and Title.]

General March, 1915, Term. Thursday, May 13,  
1915.

Sixty-third Court Day.

**Order Denying Motion for New Trial and in Arrest  
of Judgment.**

Now, on this day, came on for hearing defendant's motion for a new trial herein, and motion in arrest of judgment, the plaintiff being represented by R. F. Roth, United States Attorney, the defendant being represented by M. E. Stevens, and not being present in person; said motions were presented by M. E. Stevens, defendant's attorney and submitted to the Court without argument by R. F. Roth, United States Attorney; whereupon the Court being fully and duly advised in the premises.

IT IS ORDERED, that said motion for a new trial herein, and motion in arrest of judgment herein, be, and the same are hereby denied.

Clerk's Note: To which ruling of the Court M. E. Stevens, Attorney for defendant, excepted and exception was allowed.

CHARLES E. BUNNELL,

District Judge.

Entered in Court Journal No. 13, page 159. [36]



[Caption and Title.]

General March, 1915, Term. Thursday, May 13,  
1915.

Sixty-third Court Day.

**Order Fixing Time for Pronouncing Sentence.**

Now, on this day, the United States Attorney, R. F. Roth, appearing in behalf of plaintiff, the defendant being represented by M. E. Stevens, and not being present in person,

IT IS ORDERED, that the time for pronouncing sentence and judgment upon the defendant therein, be, and the same is set for Tuesday, May 18, 1915, at 10:00 A. M.

CHARLES E. BUNNELL,  
, District Judge.

Entered in Court Journal No. 13, page 159. [37]

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[Caption and Title.]

**Judgment and Sentence.**

Now, at this time, to wit, May 18th, 1915, the same being one of the regular March, 1915, term days of this Court, this cause came on in open session for the pronouncement of judgment and sentence of the Court upon M. E. Hall, the above-named defendant. United States appeared by its Attorney, R. F. Roth, and the defendant appeared in person and by his attorneys, Thomas A. Marquam, Morton E. Stevens and Leroy Tozier.

It appears to the Court and the Court so finds that a regular and lawful jury for the Fourth Ju-

dicial Division, Territory of Alaska, did, upon the 19th day of May, 1915, find and present a regular indictment against the defendant, M. F. Hall, charging him therein with the crime of an unlawful assault, not being armed with a dangerous weapon, upon the person of one Selma Lappi, upon the 24th day of September, 1914, at the town of Fairbanks, Fairbanks Precinct, Alaska; that upon the 22d day of March, 1915, the defendant was duly arraigned upon said indictment and that upon the 24th day of March, 1915, he entered his plea of not guilty thereto; that upon the 16th day of April, 1915, the same having been theretofore appointed as the time for the trial of said cause, the defendant, M. F. Hall, appeared in person and by his attorneys Thomas A. Marquam and Morton E. Stevens, and the United States appeared by its attorney, R. F. Roth, and the trial of said case was commenced; that upon the 16th, 17th, 19th, 20th, [38] 21st and 22d days of April, 1915, a jury of twelve men was duly and regularly empaneled and sworn to try the above-entitled case, evidence was introduced on behalf of the Government, and the defendant, M. F. Hall, and after argument of counsel, and being instructed by the Court as to the law of the case, said jury retired upon the 22d day of April, 1915, to consider its verdict, and the same day in open Court, and in the presence of the defendant, M. F. Hall, and his attorneys Thomas A. Marquam and Morton E. Stevens, said jury returned its verdict, which was in words and figures, as follows:

*“In the District Court for the Territory of Alaska,  
Fourth Judicial Division.*

No. 689—CR.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

H. F. HALL,

Defendant.

VERDICT.

We, the jury, duly empaneled and sworn to try the above-entitled action, do find the defendant, M. F. Hall, guilty as charged in the indictment.

Dated April 22, 1915.

DAN McCABE,  
Foreman.”

That thereafter, the defendant, M. F. Hall, filed a motion for a new trial and a motion in arrest of judgment, which said motions were upon the 13th day of May, 1915, denied.

Now, upon this 18th day of May, 1915, the same having been heretofore set as the time for pronouncing the judgment and sentence of the Court upon the defendant, the defendant was asked if he had anything to say why judgment and sentence should not be pronounced upon him, and he having made his statement in reply thereto, and the Court being fully advised upon the subject and in the premises.

IT IS THE JUDGMENT OF THE COURT that the defendant, M. F. Hall, is guilty of the crime of assault, without being armed with a dangerous weapon, as charged in said indictment and in accordance with said verdict, and it is the judgment and

sentence of the [39] Court that the defendant, M. F. Hall, be confined in the Federal jail, at Fairbanks, Fairbanks Precinct, Alaska, for a period of six months, and in addition to said imprisonment, be fined and he is hereby fined the sum of Five Hundred (\$500), which sum he shall pay to the United States of America, and in default of the payment whereof, he shall be confined in the said Federal jail one day for each Two dollars (\$2 ) of said fine remaining unpaid.

Dated at Fairbanks, Alaska, this 18th day of May, 1915.

CHARLES E. BUNNELL.

Entered in Court Journal No. 13, page 169.

[Endorsed]: No. 689—Cr. District Court, Territory of Alaska, Fourth Judicial Division. United States of America, Plaintiff, vs. M. F. Hall, Defendant. Judgment and Sentence. Filed in the District Court, Territory of Alaska, 4th Div. May 18, 1915. J. E. Clark, Clerk. By P. R. Wagner, Deputy. [40]

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[Caption and Title.]

General March, 1915, Term. Tuesday, May 18, 1915.

Sixty-seventh Court Day.

**Order Granting Stay of Execution.**

Now, on this day, on motion of T. A. Marquam, attorney for defendant.

IT IS ORDERED, that a stay of execution herein, be, and the same is hereby granted for a period of ten days, within which to file a supersedeas bond,



which bond is hereby fixed in the sum of fifteen hundred dollars (\$1500).

IT IS FURTHER ORDERED that debendant be, and he is hereby allowed until October 1, 1915, within which to prepare and file a bill of exception herein.

CHARLES E. BUNNELL,

District Judge.

Entered in Court Journal No. 13, page 170. [41]

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[Caption and Title.]

**Affidavit of Leroy Tozier.**

United States of America,  
Territory of Alaska,—ss.

Leroy Tozier, being duly sworn, upon oath deposes and says:

1. That T. A. Marquam, M. E. Stevens and this affiant were the attorneys retained by the defendant in this case to represent him in the defense of this prosecution, but by reason of serious illness, this affiant was prevented from being present during the trial of this cause and T. A. Marquam, M. E. Stevens, were the counsel representing the defendant herein during said trial.

2. That said trial resulted in a conviction against the defendant herein, who was condemned by judgment of this Honorable Court pronounced on May 18th, 1915, to six months imprisonment in jail and to pay a fine in the sum of \$500, and feeling himself aggrieved, decided to appeal from this cause to the 9th Circuit Court of Appeals for review thereof, and has retained this affiant to proceed with said appeal



and affiant is now engaged in the preparation thereof.

3. That affiant has been informed by said T. A. Marquam on or about May 25th inst, and the said M. E. Stevens, on May 26th inst., that they had withdrawn from this case, as counsel for the defendant, and upon further inquiry, this affiant is informed that the official court reporter who reported the evidence in this case, has been attending [42] to his duties in court, and will be unable for a few days more by reason of these same court duties which he is required to fulfill, to spare the necessary time to have the transcript of this said evidence made and given to the defendant or to the affiant, his counsel.

4. That affiant has been informed by the associated counsel and the defendant herein of the substance of the evidence introduced in the trial of this case and affiant, from such information as he has received, verily believes that the Court has erred in admitting some of the said evidence heard on trial and that thereby, the defendant has been greatly prejudiced.

5. That affiant is informed by E. T. Wolcott, official court reporter, and also by the defendant herein that the said transcript has been ordered to be made out, and that said E. T. Wolcott is now engaged in transcribing the same for use in said appeal, but that same cannot be delivered to the affiant for at least one week from the date hereof.

LEROY TOZIER.

Subscribed and sworn to before me this 27th day of May, 1915.

[Seal]

R. M. CRAWFORD,  
Notary Public in and for the Territory of Alaska.

My commission expires May 10th, 1917.

Service of a true copy of above affidavit is hereby admitted this 27th day of May, 1915.

R. F. ROTH,  
U. S. District Attorney.

[Indorsed]: Filed May 27, 1915. [43]

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[Caption and Title.]

**Order Extending Time [to October 1, 1915] for  
Preparing and Presenting Bill of Exceptions.**

WHEREAS, on the 22d day of April, 1915, on application of the defendant, time from said date until the first day of October, 1915, was given him to present and prepare for allowance herein his bill of exceptions, and whereas such order has never formally been entered of record.

NOW, THEREFORE, the clerk is hereby directed to enter such order now, for then, as follows;

On Application of the defendant he is given from the 22d day of April, 1915, to the first day of October, 1915, to prepare and present for allowance, his bill of exceptions herein.

CHARLES E. BUNNELL,  
District Judge.

Done in open court this 30th day of Sept., 1915.

Entered in Court Journal No. 13, page 265.

[Indorsed]: Filed September 30, 1915. [44]

[Caption and Title.]

General March, 1915, Term. September 30, 1915.

One Hundred First Court Day.

**Order Fixing Time [to October 4, 1915] to File  
Objections [to Bill of Exceptions].**

Now, at this, time R. F. Roth, appearing for and on behalf of the Government and Leroy Tozier, appearing for and on behalf of defendant, and counsel for defendant having prepared and now presenting in open court his bill of exceptions in the above-entitled cause, and counsel for the Government having stated to the Court that he may wish to file objections thereto.

IT IS ORDERED that Monday, October 4th, 1915, to be fixed as the final day for filing objections to defendants bill of exceptions.

CHARLES E. BUNNELL,

District Judge.

Entered in Court Journal No. 13, page 265. [45]

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[Caption and Title.]

General March, 1915, Term. October 4, 1915. One

Hundred Third Court Day.

**Order Continuing Settling of Bill of Exceptions  
[Until October 5, 1915].**

Now, on this day, R. F. Roth, appearing for and on behalf of the Government, and Leroy Tozier, appearing for and on behalf of the defendant, and counsel for defendant having heretofore presented his bill of exceptions in the above-entitled cause, and

this day, Monday, October 4, 1915, being the time fixed for filing objections to said exceptions, upon the request and consent of counsel for the respective parties,

IT IS ORDERED, that the matter of settling defendant's bill of exceptions be and the same is hereby continued until 10:00 o'clock A. M., Tuesday, October 5th, 1915.

CHARLES E. BUNNELL,

District Judge.

Entered in Court Journal No. 13, page 268. [46]

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[Caption and Title.]

**Bill of Exceptions.**

BE IT REMEMBERED, That this case came on regularly for trial in above-entitled court at 10 A. M., April 16, 1915, before Honorable Charles E. Bunnell, judge of said court, presiding, when the defendant and his attorneys Thomas A. Marquam and Morton E. Stevens, and the United States Attorney R. F. Roth, were in court. Proceedings were taken to empanel a jury and were concluded April 17, 1915, when 12 men were duly sworn as the jury to try the case. During the course of the proceedings to empanel the jury, a recess was taken from 12 M., to 2 P. M., and the trial continued at 5:30 P. M., April 16, 1915, until the following day, and a recess taken from 12 M. to 2 P. M., April 17, 1915, and at the time of taking said last mentioned recess, an order was made that during the trial the jurors in box be kept together in custody of bailiffs, and



two bailiffs were then sworn and the jurors placed in their custody, and during the trial, the jurors in the box, and the jury when completed, were in the custody of said bailiffs during all recesses and continuances. That at the beginning of the trial the Court of its own motion, and with the consent of the prosecution and defendant, excluded from the court room all spectators as such, which order did **not** apply to or exclude persons having business before the Court, or officers, litigants, or others having business properly before the Court, attorneys, or representatives of newspapers, or witnesses in the case. [47\*—1†]

Immediately after the jury was sworn to try the case, Mr. Roth made an opening statement in behalf of the plaintiff, and Mr. Marquam made a statement in behalf of defendant. Thereupon the attorneys for defendant asked that the witnesses be excluded, and the Court ordered that all witnesses be excluded from the courtroom, save and except the witness on the witness-stand and the mother of Selma Lappi, and stated that in furtherance of justice and owing to the age of said Selma Lappi, namely, 9 years, her mother Mrs. Lappi might remain in the courtroom while said Selma Lappi gave her evidence, and the defendant excepted to Mrs. Lappi being so allowed to remain, and the Court allowed an exception. The defendant was present in court at all times when any testimony was given or proceedings had in said case from the beginning of the trial until the including

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\*Page-number appearing at foot of page of original certified Record.

†Original page-number appearing at foot of page of Bill of Exceptions of original certified Transcript of Record.



the rendering of the verdict. That as soon as the witnesses withdrew from the courtroom pursuant to said order, the following proceedings were had and testimony was taken:

**[Testimony of Selma Lappi, for Plaintiff.]**

SELMA LAPPI, witness for plaintiff, after being duly sworn, testified as follows, to wit:

Direct Examination.

(By Mr. ROTH.)

Q. What is your name?      A. Selma Lappi.

Q. Where do you live, Selma?

A. I live on Cushman Street and 11th.

Q. In Fairbanks?      A. Yes.

Q. Do you go to school?      A. Yes.

Q. What grade are you in?

A. In the second grade.

Q. Who is your teacher?      A. Miss Karrer.

Q. How long have you gone to school? Have you gone to school [48—2] two years?      A. Yes.

Q. Do you go to Sunday School?      A. Yes.

Q. What Sunday School do you go to?

A. Presbyterian.

Q. Who is your Sunday School teacher?

A. My Sunday School teacher is Mrs. Moore.

Q. How old are you?      A. Nine years old.

Q. When was your birthday?

A. July 25th, 1914.

Q. Did you ever live on Fairbanks Creek?

A. Yes.

Q. Do you remember where you lived on Fairbanks Creek?      A. Yes, sir.

(Testimony of Selma Lappi.)

Q. Is there anything the matter with your neck, Selma?

A. Yes, sir. I have got a lump there.

Q. Did you have any other lumps there?

A. Yes. I had one right here (showing), but it was operated on.

Q. Who operated on it? A. Doctor Hall.

Q. Do you know where you were when Doctor Hall operated on you? A. Yes.

Q. Where were you? A. At the hospital.

Q. What hospital were you operated at, Selma?

A. Across the river.

Q. St. Josephs? A. Yes. [49—3]

Q. Did Doctor Hall take care of your neck after he operated? A. Yes.

Q. Where would he take care of it? Where? Would you go any place where he took care of your neck afterwards? A. Yes. I went to his office.

Q. Where was his office? Do you remember what office it was—what building it was in?

A. I forget. I don't know the name of it, but I know.

Q. Was it upstairs over anything? Was it upstairs over any store? A. Yes.

Q. What store? A. Red Cross.

Q. The Red Cross Drugstore. Do you remember the last time that you went to Doctor Hall's office, Selma? A. Yes.

Q. Was that in the summer time, do you remember?

(Testimony of Selma Lappi.)

A. I don't know. I think it was in the fall sometime.

Q. Do you remember whether it was? Do you remember if it was last fall sometime?

A. I think it was last fall sometime.

Mr. ROTH.—Talk out loud, so that these gentlemen (indicating jury) and the stenographer can hear.

Q. The last day that you went up to Doctor Hall's office—Do you remember the last day? A. Yes.

The last day you were there did Doctor Hall do anything with your neck?

A. Yes. He picked out—I don't know what you call it, what kind of stuff. It was right there (indicating). He picked [50—4] some kind of stuff out of my neck.

Q. Was anybody in the office at that time?

A. There was someone out doors fixing the pipes.

Q. Do you know who those men were?

A. I think it was Mr. Dundon, and—I don't know the other man's name.

Q. Mr. Dundon was one of them?

A. Yes. And there was another man that works at the N. C.

Q. When he treated your neck was there anybody in the room where you and Doctor Hall were?

A. No.

Q. Do you know what time of day it was, Selma?

A. I think it was Friday.

Q. Do you know what time of day it was? Do you know what time it was by the clock, about?

(Testimony of Selma Lappi.)

Had you been to school?

A. Yes. I got out, I think it was, about 2 or half-past 2.

Q. When you got out of school, where did you go?

A. I came home first and I went down to Doctor Hall's office.

Q. Did you go right down to Doctor Hall's office as soon as you got home? A. Yes, sir.

Q. After Doctor Hall picked those things out of your neck, what did Doctor Hall do.

A. He unbuttoned my panties and wanted to know how fat I was.

Q. Where were you sitting when he did that, or were you sitting down at all?

A. There was a kind of a bed and I was sitting on the bed there. First he fixed my neck; then he took me and he told me to sit down; then he wanted to see how fat I was, and told me to come on his lap.

Q. Did you get on his lap? [51—5] A. Yes.

Q. Then what did he do?

A. He unbuttoned my panties, and he said he wanted to see how fat I was.

Q. When he unbuttoned your panties and said he wanted to see how fat you were, did you still stay on his lap?

A. No, he put me on the lounge and started to lay down, and he sat down and was feeling—(remainder inaudible).

Q. I didn't hear you?

A. He put me on the lounge. Then he was feeling me to see how fat I was.



(Testimony of Selma Lappi.)

Q. Where did he feel you?

A. Right here (indicating).

Q. What did he do with his finger?

A. He did like that (indicating), inside like that.

Q. Inside?      A. Yes.

Q. Did he say anything?

A. Then he said, "Does it hurt?" I said: "Yes," and then I said "No."

Q. You said "Yes" first, and then you said "No"?

A. Yes.

Q. How many times did he do like that (indicating) with his finger inside?      A. I don't know.

Q. Do you know how long he did that? (Witness cries.) Do you know at all how long it was?

A. No. I don't.

Q. Well, after he did that, then what did you do after he did that?

A. He told me to button up my panties. [52—6]

Q. All right. Did you button up your panties then?      A. Yes.

Q. Now, when he laid you down on the lounge, as you say, did he sit down on the lounge?

A. He lay down on the lounge, and I was lying down too.

Q. He lay down on the lounge and you were lying down too?      A. Yes.

Q. Was he behind you on the lounge?

A. He was behind me.

Q. When he told you to button up you panties, then what did you do?

A. Then he kissed me right here (indicating), and

(Testimony of Selma Lappi.)

he kissed me right here (indicating), and he said I am a nice girl.

Q. Where did he kiss you?

A. Right here, and right up here (indicating).

Q. Did he kiss you down there when your panties were open?      A. I think so.    Yes.

Q. He kissed you on the leg?      A. Yes.

Q. And he kissed you up here too, on the cheek?

A. Yes.

Q. After you had your panties buttoned up, then what did you do?

A. Then I buttoned my panties, and then put on my coat.

Q. And then what did you do?

A. Then I went home.

Q. When you went home did you tell anybody about this?

Mr. MARQUAM.—We object—(interrupted).

A. I told mamma about it.

Mr. MARQUAM.—As irrelevant, incompetent and immaterial.

(Objection overruled.)    (Defendant excepts.    Exception allowed.)    [53—7]

Q. Did you ever go back any more?

A. No.    I was to go back Saturday, and mamma wouldn't let me.    Well, I told mamma about it, and I said, "I don't want to go down there."

Mr. ROTH.—You may cross-examine.

(Here a ten minute recess was taken, and after recess the witness resumes her testimony.)

(Testimony of Selma Lappi.)

Cross-examination.

(By Mr. MARQUAM.)

Q. Do you know this gentleman here that was asking questions of you?     A. Yes.

Q. How long have you known him, do you remember, or do you remember when you first met him or first saw him? Do you know his name?

A. Yes. Mr. Roth?

Q. When did you first see Mr. Roth that you remember? Can you remember, Selma, when you first saw him?     A. No.

Q. You don't know how long it has been since you first saw him?     A. No.

Q. Haven't you any idea?     A. No.

Q. Do you remember where you first saw him; where you were and where he was when you first saw him?

A. I think it was over here that I saw him.

Q. You mean in this building?     A. Yes.

Q. Do you know about how long ago it was?

A. I think—It was just lately. [54—8]

Q. Has he ever been at your house, do you know?

A. Yes. He has been up to our house.

Q. How many times, do you know?

A. I think it was about twice, or once.

Q. Did he talk with you at that time?

A. It was one noon-time when he was over there when I was at school, I think it was.

Q. I mean when you were there.

A. There was only once when I was there.

(Testimony of Selma Lappi.)

Q. Did he talk with you about this matter at that time?     A. Yes.

Q. For how long a time, do you remember?

A. Just a little while; not very long.

Q. Who was there besides you and Mr. Roth. Was your mother there?     A. Yes.

Q. Was there anybody else?

A. There was another lady. She was in the other room making me a new dress.

Q. Did you come down to Mr. Roth's office in this building? Is that the place where you were?

A. Yes.

Q. And you talked with Mr. Roth there?

A. Well, I talked at home with him.

Q. Did you talk with him at the office?     A. Yes.

Q. Did he ask you questions?     A. Yes.

Q. About the same questions that he asked you a while ago?     A. Yes.

Q. Have you talked with anybody else about the matters that you [55—9] talked about here?

A. No.

Q. With no one?     A. No.

Q. You talked with your mother, didn't you?

A. Yes.

Q. Anybody else besides your mother?

A. No. There was not anybody else.

Q. How often have you talked to your mother about this matter? Can you tell the jury about how often?

The COURT.—I would suggest that you might get the same result by asking her if it was a great



(Testimony of Selma Lappi.)

many times or a few times, without using the words "how often."

(Mr. MARQUAM.)

Q. Did you talk many times to your mother about this, and did she talk to you many times—a good many times or not?   A. (No answer.)

Q. Do you remember, Selma, about how many times, or how often?   A. No.

Q. Do you know when this was—about when it was last fall or this fall that you went down to Doctor Hall's the last time?

A. It was the day when my papa left.

Q. Where was your papa going?   A. To Ruby.

Q. You don't know, of course, what month that was, do you?   A. No, I don't.

Q. Did he come back from Ruby?   A. Yes.

Q. Do you know where he is now?   The Tolovana, is that where he is?   A. Yes. [56—10]

Q. How many times, Selma, had you been to Doctor Hall's office before this last time, if you remember?   A. I don't remember.

Q. A good many times, or just a few times

A. Not so very many.

Q. What is that?   A. Just a little while.

Q. You understand what I ask you when I ask you how many times. How many different times were you up to Doctor Hall's office? You understand what I am asking you. What would you say to that; about how many times were you up there?

A. Just a few times.

Q. A dozen times? Do you know how many a

(Testimony of Selma Lappi.)

dozen is?     A. Yes, I know.

Q. Was it that many times?

A. Maybe it was a little longer. I don't know.

Q. Maybe it was a few more times?

A. Yes. But I don't remember how many it was.

Q. Do you remember the first time that you saw Doctor Hall?     A. Yes.

Q. Where was that?

A. He was out on the creek. And we came in, and I went to his office, and mama talked about my neck.

Q. Do you remember the time you were in the hospital and that Doctor Hall was attending to your neck?     A. Yes.

Q. How long before that particular time was it that you first saw Doctor Hall? (No answer.) Can you think, Selma, and tell me about how long before you went to the hospital you had seen Doctor Hall?     A. I think it was about twice. [57—11]

Q. No, that was not what I wanted; not how many times you had seen him before you went to the hospital, but how many weeks or months. You understand what a week is; it is seven days, and a month is thirty days. You know that?     A. Yes.

Q. Was it a week or a month or how long before you went to the hospital that you first saw Doctor Hall? Can you think and tell us?     A. No.

Q. What did you say about out on Fairbanks Creek?

A. I saw him the first time there.

Q. Do you remember seeing Doctor Hall out on Fairbanks Creek?     A. Yes.

(Testimony of Selma Lappi.)

Q. When you were pretty sick and your neck was pretty bad and it hurt you pretty bad?

A. Yes, there was a man out on the creek and he had some kind of a sore on him, and then mamma knew he was out on Fairbanks Creek, and she called him over to her house.

Q. And he came to see you there.      A. Yes.

Q. Was that the first time that you had ever seen Doctor Hall?      A. I don't remember.

Q. You don't remember of ever having seen him before that time. You can't think of any other time.

A. No.

Q. You came to the hospital, and Doctor Hall treated you. Do you know what he did on that occasion in the hospital?

A. Yes. He put me on a table and fixed my neck, and when he fixed my neck he did something to it.

Q. Do you remember about that?      A. Yes.  
[58—12]

Q. Do you remember what he did to your neck?

A. He made an operation on it.

Q. Do you remember it?      A. Yes.

Q. Do you remember at the time he was doing it? Did you remember it from that?      A. Yes.

Q. Wasn't you asleep when that was done?

A. No. The second time I went to sleep.

Q. There was twice, Selma, that you were in the hospital?      A. Yes.

Q. And that Doctor Hall operated?

A. Yes. I was over there longer, but it was only twice that he operated.

(Testimony of Selma Lappi.)

Q. The second time is when you say you were asleep.     A. Yes.

Q. You took chloroform?     A. Yes.

Q. Do you remember that?     A. Yes.

Q. And you remember what it felt like?

A. Yes.

Q. And you didn't know anything about what the doctor was doing until after it was all over, did you?

A. No.

Q. After you got awake again, after you got out of the chloroform, did you have any bandages around your neck?

A. Yes, I had bandages around my neck.

Q. Do you remember how long you were in the hospital, that is the last time, the time you went to sleep when the doctor was working with you? What I mean is; how many days. (No [59—13] answer.) You remember when you waked up after this operation, do you?     A. Yes.

Q. Do you remember how many days and nights you stayed over at the hospital there with the sisters?     A. I don't remember how many.

Q. After you got out of the hospital, do you remember where you went then and where you lived?

A. I went up to my house.

Q. Where did you go after you left the hospital?

A. I went home.

Q. In town here?     A. Yes.

Q. Then after that you went down to Doctor Hall's office.     A. Not the same day.

Q. But days after that.     A. Yes.



(Testimony of Selma Lappi.)

Q. How many days was it after you left the hospital before you went down to his office?

A. I don't remember.

Q. Do you think it was as long as a week?

A. It might have been. I don't remember.

Q. Who went with you to Doctor Hall's office when you went there the first time?

A. My mamma.

Q. Do you remember what Doctor Hall did on that occasion? What did he do when you went there the first time? A. He fixed my neck.

Q. Do you know how he fixed it? What I mean is; What did he do to your neck at that time?

A. He put a bandage around it and put some stuff on it, but I [60—14] don't know what you call it.

Q. Some stuff that would stick to your neck and hold the bandages on?

A. No, he didn't do that. He put something right here, some other stuff too, and then he put some bandages on.

Q. That was the first time you went there?

A. Yes.

Q. Afterwards, when you went there on any occasion, didn't he dress this cut in your neck?

A. Yes.

Q. Who was with you the second time you went there? A. It was my mamma.

Q. Did some other lady go with you when you went to Doctor Hall's office? A. Yes.

Q. Who was it who went to Doctor Hall's office with you except your mother?

(Testimony of Selma Lappi.)

A. Anita Nordale went about twice. I don't know how many times, but it was twice though.

Q. For awhile, while you were going to Doctor Hall's, you were living with the Nordale's, weren't you? A. Yes. I was staying over there.

Q. And your mamma and papa were out on Fairbanks Creek. A. Yes.

Q. And who else? What was her name, Anita Nordale? A. Yes. Anita Nordale.

Q. Who else went up with you to Doctor Hall's office? A. And my brother, he went with me.

Q. Who went with you the last time you went up there?

A. I went by myself. Arthur started to go with me, but he would not go. [61—15]

Q. Is that your brother Arthur?

A. Yes. But he said he wanted to go and play with the boys. Then mamma said, "All right." And he went and played with the boys, and I went down there.

Q. Was that the only time you went up there alone? A. Yes.

Q. Someone was with you every other time.

A. Yes.

Q. Who did you ever see up in Doctor Hall's office when you went there during these visits?

A. Mrs. Hall.

Q. Anybody else? A. I don't remember.

Q. How long would you be there on these different occasions when you would go up there to have your neck dressed—your neck treated; how long would

(Testimony of Selma Lappi.)

you be there each day?

A. I would be there about a half an hour sometimes, and sometimes longer. I don't know how long, but about a half an hour, something like that. It was not very long, anyway.

Q. When Doctor Hall was fixing your neck and dressing it, where would you be—where in his office would you be?

A. In the room where he dresses people.

Q. What? A. Where he dresses people.

Q. You mean where he dresses their wounds. Is that what you mean? A. Yes.

Q. Can you tell the jury—Do you remember how many rooms Doctor Hall had in his office there.

A. He had a sitting room; then he had the other room where he dresses people.

Q. Were there any others that you know of?  
[62—16]

A. I think there is another room where he weighs people to see how fat they are.

Q. Did he ever weigh you, Selma? A. Yes.

Q. In this room? A. No. In the other room.

Q. How did he weigh you?

A. I stand on that thing there; then there is a thing up there—

Q. That tells how heavy you are? A. Yes.

Q. How many times did he weigh you, Selma?  
Do you remember?

A. I think it was more than once.

Q. Do you remember how much you weighed?  
Can you think and tell us, or do you remember?

(Testimony of Selma Lappi.)

What did he say at the time he was weighing you?

A. To see how fat I was.

Q. When you would come again, would he weigh you again to see whether you were getting fatter or thinner? A. Yes.

Q. And would he write it down, do you know, how much you weighed? A. I don't remember.

Q. Now, as I understand you to say a while ago, when you were being asked questions by Mr. Roth, when you went there the last time there was somebody there. Who was it?

A. It was Mr. Dundon and one other man but I don't know his name.

Q. Do you know Mr. Dundon? A. Yes.

Q. How long have you known Mr. Dundon?

A. I just seen him on the street and I would say, "How do you do" to him.

Q. You would say, "How do you do" to him, and he would say, "How [63—17] do you do" to you. Did he speak to you that day?

A. No. Because he didn't know me then.

Q. Did you know him then? A. Yes.

Q. How did you know who he was, Selma? Did somebody tell you?

A. Yes. My mamma told me.

Q. Your mamma told you who it was.

A. Yes.

Q. That is, she pointed him out to you on the street sometime. A. Yes.

Q. Well, you can't tell and you can't think of who the other man was that was there. A. No.



(Testimony of Selma Lappi.)

Q. How long were you there that day?

A. It was not very long, just a little while. I don't know how long it was.

Q. You know about how long five minutes is, and ten minutes, and fifteen minutes. Give us some idea of about how long you were there.

A. It might have been a half an hour, something like that.

Q. What time does your school let out, or what time did it let out then?

A. I don't remember what time it lets out; sometimes at 2 and sometimes at half-past 2.

Q. You understand I am meaning at the time last fall when you went to Doctor Hall's the last time.

A. Yes.

Q. That is what I mean. What time did school let out?      A. I don't remember.

Q. Did it let out then the same time it does now in the afternoon? [64—18]

A. Sometimes school lets out at half-past 2 and sometimes a little after half-past 2, but it didn't use to.

Q. What time did it let out, about?

A. It used to let out at 2, and half-past 2, and sometimes it lets out at 3 now.

Q. From school, this day you told us about, you went right home, to your mother's home.

A. Yes.

Q. Your brother went to school with you.

A. Yes.

Q. How old is he?      A. He is seven years old.

(Testimony of Selma Lappi.)

Q. Did you start down town together from the house?     A. No.

Q. He didn't get home from school?

A. Yes. He got home from school, and he said he wanted to stay and play with the boys.

Q. And your mother told him to go with you.

A. Yes, She told him to.

Q. But he didn't want to go, and your mother knew he was not going with you before you left the house, did she?     A. Yes.

Q. How long did you stay at home before you started down town?     A. Just a little while.

Q. And you went right to Doctor Hall's office.

A. Yes.

Q. And then, after you left Doctor Hall's office, did you go right home?     A. Yes.

Q. And your mother was home when you got home.     A. Yes. [65—19]

Q. Who was in the office when you went there that day, that is, besides Doctor Hall? Was he there when you got there?     A. Yes.

Q. Anybody else there?     A. I don't remember.

Q. You don't remember of anybody. Well, you didn't see Mr. Dundon at that time when you first went there?

A. Yes. I saw him. He was out in the other room. He was fixing the pipes. When you go upstairs there is a place right there where he fixed the pipes.

Q. Outside of Doctor Hall's office?     A. Yes.

Q. Did you see him in Doctor Hall's office at any

(Testimony of Selma Lappi.)

time you were there?

A. Yes. Then he went out and fixed the pipes. Then Doctor Hall told me to sit down, and the men left.

Q. Then the men left? A. Yes.

Q. When Doctor Hall told you to sit down, which room were you in—in his office?

A. I wasn't in the sitting-room. I was in the other room.

Q. In the room where you say he dressed people?

A. Yes.

Q. Did you ever hear him call it the operating room? A. Yes.

Q. Is that the room you were in? A. Yes.

Q. When you went in there was the door that went from the reception-room—Is that what you call it? The first room you go in, you call the reception room, or did you ever hear it called that? A. Yes.

[66—20]

Q. There is a door between, isn't there?

A. Yes.

Q. When you went into the operating-room, was the door closed between the two?

A. I think it was open, and then he closed it.

Q. Did he lock it?

A. He didn't lock it, no. He just closed it.

Q. And you sat on the couch, you say, first?

A. Yes.

Q. While he dressed your neck?

A. No, It was on the operating-table,

Q. What?

(Testimony of Selma Lappi.)

A. It was on the operating-table.

Q. Were you lying down on the operating-table?

A. Just sitting down.

Q. And what did he do that time; what did he do with your neck?

A. He had a little thing, some kind of a thing—

Q. Speak louder.

A. He had a little thing like this, and he did like this (showing). There was some kind of stuff there and he pulled that out.

Q. What was it he had in his finger or in his hand, do you know? A. Some kind of a—

Q. Can you tell us what it was like, if you don't know what the name of it was? Was it medicine?

A. No, it wasn't medicine.

Q. Some kind of an instrument, was it?

A. Yes.

Q. What was he doing with it?

A. He had it like this, a little thing like this (showing). He opened it and closed it, and he did like this, and pulled this out. [67—21]

Q. It was a kind of a pinchers? A. Yes.

Q. That he was pulling the cotton out of this *would* with? A. Yes.

Q. Was there anything on your neck held over this wound? A. No.

Q. Was there some cotton on your neck?

A. No. There was just some kind of stuff that came there. The scar was just here, and some kind of stuff came.

Q. Did you have bandages around your neck?



(Testimony of Selma Lappi.)

A. Yes, I had a handkerchief.

Q. That was bound or tied around your neck over this wound?      A. Yes.

Q. When you went home did you have a bandage around it?

A. Yes. I had this handkerchief around it.

Q. You put it on or the doctor?

A. I think I did.

Q. In his office?      A. Yes.

Q. Tie it, or how did you fasten it on?

A. I just tied it on like this (indicating).

Q. Did the doctor say that your neck was well then?

A. No, he didn't say so then, but he said it was pretty near well, healed up.

Q. Didn't the doctor tell you at that time that you needn't come any more?

A. No. He told me to come on Friday; then he told me to come Saturday.

Q. That was on Friday, you are sure?

A. Yes. It was on Friday.

Q. And you were to come Saturday?

A. Yes. [68—22]

Q. But you didn't come?

A. No. I didn't go back.

Q. After he got through dressing your neck while you were sitting *in* the operating-table, then what did you do?

A. Then he told me to sit down while the men were fixing the pipes of the house, and I didn't know what he wanted. Then he took me on his lap, and then he unbuttoned my panties. Then he put me on the

(Testimony of Selma Lappi.)

lounge and unbuttoned my panties. Then he gave me a piece of candy. And then he told me to button up my panties. That is all he told me.

Q. He gave you some candy, you say? A. Yes.

Q. What kind of candy was it?

A. Chocolate.

Q. Where did he get that?

A. I don't know.

Q. Was your treatment, as far as your neck was concerned, all through then? A. No.

Q. That is, when you sat down on the lounge was he through treating your neck—I mean for that day?

A. Yes.

Q. He was all through? A. Yes.

Q. Did you have your hat on? A. No.

Q. After you got off of the operating-table and sat down on the lounge, did you sit up on the operating-table any more that day? A. No. [69—23]

Q. You say he asked you to stay and wait there?

A. Yes.

Q. And these men were there? A. Yes.

Q. Both of them that you had seen? A. Yes.

Q. Were they in this same room? A. Yes.

Q. What were they doing there?

A. They were fixing the pipes, and then they left.

Q. What did he say to you at that time; do you remember?

A. He said he wanted to see how fat I was.

Q. Had he weighed you that day? A. Yes.

Q. Had he written down the amount that you had weighed, do you know, that is how much you weighed,

(Testimony of Selma Lappi.)

had he written that down?      A. I don't know.

Q. Had he before this?    Before this, I understood when he would weigh you he would find out how much you would weigh, to see whether you were getting any thinner or fatter, and then he would write it down. Is that right?

A. He didn't do that when I was there, he didn't put it down. But maybe when I left he put it down.

Q. You didn't see him write it down?      A. No.

Q. At any time?      A. No.

Q. He would tell you how much you weighed?

A. Yes.

Q. Would he tell you whether you were getting fatter or not?    [70—24]

A. He told me I was getting fatter.

Q. Right along while he was treating you that you were getting fatter?      A. Yes.

Q. On this occasion did he unbutton your clothes, that is, did he do it himself or did you?

A. I think he did it.

Q. Do you remember, Selma?

A. Yes, I think he did. Yes, he did it.

Q. How many buttons were there?      A. Two.

Q. What do you call these clothes he unbuttoned. What do you call them?    What does your mother call them?      A. Drawers.

Q. Is that what he unbuttoned?      A. Yes.

Q. Just tell us again just what the doctor did after he unbuttoned these drawers.

Q. Well, he was sitting on a chair, and he put me on his lap. Then pretty soon he got tired and he

(Testimony of Selma Lappi.)

went and lay on the lounge and told me to lay down too, and then he was feeling how fat I was.

Q. He was feeling you. Whereabouts did he feel you first?

A. All around here (indicating), and then right here (indicating).

Q. What do you mean "right here"?

A. Right here (indicating).

Q. Inside of you? A. Yes.

Q. Can you tell the jury, Selma, how far he *left* inside of your? About how far? (No answer.) Do you know what I mean? A. Yes. [71—25]

Q. Could you tell about how far with his fingers?

A. Yes.

Q. What finger or which hand was he using, do you know?

A. The right hand, I think. I am not sure.

Q. Do you know how far inside of you he felt with his finger? Was it quite a ways? Do you remember? A. No.

Q. Did it hurt you? A. A little.

Q. How did it hurt you?

A. It hurt me. It kind of pained me.

Q. You told Mr. Roth—you made some movement to describe what he was doing. What was that, Selma? (No answer.) Do you remember what you said to Mr. Roth when he was asking you a question? Do you remember of saying to Mr. Roth, Selma, when he was asking you about that; that you moved your hand something in this manner when you were describing it to him. To you remember? (No an-



(Testimony of Selma Lappi.)

swer.) Just a moment ago when Mr. Roth was asking you questions, do you remember that Mr. Roth moved his hand around something like this (indicating), and you did that too? Do you remember that? A. I don't remember that.

A. I don't remember that.

Q. Did Doctor Hall make any movement like that?

A. Yes. He did like this (indicating).

Q. Where was that?

A. Right here (indicating).

Q. Inside? A. Yes.

Q. Quite a little ways inside?

A. Just a little. [72—26]

Q. And it pained you and hurt you? A. Yes.

Q. And I believe you say he asked you if it hurt?

A. Yes. And I said "Yes," and then I said "No."

Q. How long was that? How long a time did that take, do you know? What I mean is, how many minutes or seconds?

A. Half an hour, or not quite that long?

Q. That he was making this movement, this motion? A. Yes.

Q. A half an hour?

A. I think it was a half an hour or not quite that long.

Q. What do you think, Selma?

A. It might have been half an hour.

Q. Do you know how long a half an hour is?

A. Yes.

Q. How long do you think you were at the office altogether?

(Testimony of Selma Lappi.)

A. I think about half an hour.

Q. Did you cry at any time while you were there?

A. No.

Q. While you were in Doctor's Hall's office did you ever cry by reason of anything he did to you?

A. This same day?

Q. Yes.

A. No. I didn't cry that day.

Q. Did you at other times?

A. Yes, sir. I didn't always, but a few times.

Q. You did cry a good many times there?

A. Not very many times.

Q. When you did do that, what were you crying about? Did he mistreat you?

A. Yes, he did something, the same kind of a thing he did to [73—27] me, and there was some kind of stuff and he pushed that in and took it out and it hurt like everything (pointing to her neck).

Q. How many times did that occur? How many different times? A. I don't remember.

Q. Do you want to take a little rest? Are you getting tired? A. No.

Q. And you were crying because the doctor was hurting you? A. Yes.

Q. Tell the jury what he was doing?

A. There was some kind of a thing he put in and pulled it out. (Pointing to her neck.) That was the day Anita went with me.

Q. Was it just once that you did that?

A. I think it was twice when Anita went with me.

(Testimony of Selma Lappi.)

Q. Was it any time when Anita didn't go with you that you cried?

A. Pretty near every time when Anita was there he did that. He did that pretty near every day then.

(Short recess, and after recess witness resumes testimony.)

Q. Was anybody else ever present when Doctor Hall treated your neck and you say that you cried, besides Anita Nordale?

A. I don't know. I think there were some people there in the other room.

Q. You mean—(interrupted).

A. In the sitting-room.

Q. Was that more than once, or just once?

A. I don't know. I don't remember.

Q. Do you remember of anybody besides Anita Nordale who was ever there in the room when you say you cried?

A. I think Mrs. Hall was there once. [74—28]

Q. In the same room with you?

A. Yes, she was in the same room to see how my neck looked.

Q. How many times did you see Mrs. Hall there; just the once?

A. Maybe three or four times.

Q. Would she be in the room where you were?

A. Sometimes she would be in the other room and sometimes she would be in the same room where we were.

Q. Do you know Mrs. Hall?      A. Yes.

Q. Where did you first see Mrs. Hall?

(Testimony of Selma Lappi.)

A. In Doctor Hall's office?

Q. Did you ever see her any place else?

A. I don't believe I have.

Q. Was there anybody else ever there when you cried? A. I don't know.

Q. Just why was it that you cried when you were there? A. Because it hurt.

Q. This place where it had been cut hurt, did it?

A. Yes. And there was some kind of stuff that he pulled out, that stuck; stuff that he put on down here (showing) and it stuck on the skin, and he pulled that off and it hurt.

Q. And it was just when he would touch this wound or pulled that sticky stuff off that it hurt. Was that the only reason you cried?

A. And then he pulled that off, and there was something in here (showin), and he pulled that out and it hurt.

Q. Did he give you any medicine at that time, do you know? A. No. I don't think so.

Q. It was just because it pained you. You know what I mean when I say "pained"?

A. Yes.

Q. It pained you, and that is the reason you cried.  
[75—29]

A. Yes.

Q. At any other time did the doctor feel you to see whether you were fat or getting thinner?

A. That was the only time.

Q. Where was the doctor when you say that you sat on his lap; where was he sitting?



(Testimony of Selma Lappi.)

A. There is a table where he keeps some books and all kinds of things, and there was a seat right close there and he was sitting right on that and he put me on his lap.

Q. Which side of the table was the seat?

A. Right close to the window.

Q. How close to the window was that seat?

A. The window was to the right, and the seat is right here. (Indicating.)

Q. Was that where you sat on his lap? A. Yes.

Q. How long were you on his lap?

A. Just a little while. It was not very long.

Q. Where were you when you say he unbuttoned your drawers? A. I was on his lap.

Q. What did you say to him, or he say to you? Tell us everything that was said then.

A. He said he wanted to see how fat I was, and then he sat down and he was sitting on a chair. Then he put me on his lap. Then he put me on the lounge.

Q. Just a minute. I didn't quite understand that. You say he put you on his lap? A. Yes. [76—30]

Q. What did he say to you then; just that he wanted to see how fat you were? A. Yes.

Q. Tell us everything he did then.

A. He felt all around me (showing), right down here, and right around here.

Q. While you were sitting on his lap? A. Yes.

Q. Did he feel your stomach? A. No.

Q. He didn't?

A. As far as to here. He felt me right here (showing).

(Testimony of Selma Lappi.)

Q. And around to the sides?      A. Yes.

Q. And on your legs?

A. No. From right here (showing).

Q. Do you know what your stomach is? Do you know what I mean when I ask about your stomach?

A. This. Yes.

Q. This part of you right around here (showing). That is your stomach. Do you know that?

A. Yes.

Q. Did he put his hands on your stomach and feel?

A. No. He started from right here, and he touched me right up to here, and all right around here (showing).

Q. He didn't feel your stomach at all?      A. No.

Q. That was all done while you were sitting on his lap?      A. Yes.

Q. How long was that?

A. Just a little while. It was not very long.

[77—31]

Q. Then what did he do?

A. He put me on the lounge.

Q. What do you mean by he put you? Did he ask you to get on the lounge, or did you go over there yourself?      A. Yes.

Q. And sit down on the lounge.      A. Yes.

Q. What did he do?

A. He lay down. He was sitting down.

Q. Sitting down where?

A. He was sitting down on the couch, and he feeled me all around, and then he lay down and then I lay down too, and he feeled me all around.

(Testimony of Selma Lappi.)

Q. Why did you lay down?

A. Because he told me to.

Q. And he lay down? A. Yes.

Q. And he felt you again. A. Yes.

Q. What did he say that time, if anything? Did he say anything to you? A. No.

Q. Did you ask him why he was doing that?

A. No. I didn't say a thing.

Q. Then what else did he do?

A. Then he buttoned up my pants. Then he gave me a piece of candy. Before I buttoned up my pants he kissed me right here and he kissed me right there (showing).

Q. Tell us where he kissed you?

A. Right there (showing).

Q. What part of you is that?

A. Close to my knee. [78—32]

Q. Pretty close to the knee? A. Yes.

Q. Then where else did he kiss you?

A. Right on the cheek here.

Q. Then you buttoned up your panties.

A. I did.

Q. You buttoned them up? A. I think he did.

Q. You think he did. A. Yes.

Q. How many buttons were there to button up?

A. Two.

Q. Did you see that with your own eyes, that they were unbuttoned? A. Yes.

Q. Could you look down and see that? A. Yes.

Q. What kind of a dress did you have on?

A. I think it was a brown dress. I am not sure.

(Testimony of Selma Lappi.)

Q. Was there anything else after he buttoned up—you say he buttoned up your drawers, buttoned those two buttons; then what did he do?

A. Then I put on my coat, and then I went home. And he told me to come the next day.

Q. Well, now, have you told us everything?

A. Yes.

Q. Since I have been asking you the last minute or two since you were on the stand, have you told us everything that occurred? A. Yes.

Q. You told those things before when you were testifying? [79—33] A. Yes.

Q. But you didn't tell us as much this time as you did before. Have you forgotten to tell us anything this time when I asked you to tell everything that was done? A. That is all.

Q. Now, just so we will be sure about it; after you got off the operating-table, everything had been done to your neck that had to be done, was it? A. Yes.

Q. How long did it take the doctor to attend to your neck? A. Just a little while.

Q. About how many minutes do you think?

A. I don't remember.

Q. Five or ten minutes?

A. Maybe. I think so.

Q. Did you cry that day?

A. No. It didn't hurt that day.

Q. Then you say the doctor went and sat on the chair. A. Yes.

Q. And you went upon his lap. A. Yes.

Q. Sat upon his lap, and then is where you say he



(**Testimony of Selma Lappi.**)

unbuttoned your drawers.      A. Yes.

Q. And felt you around your legs; and anything else then that he did at that time?

A. No, I think that is about all

Q. And then he asked you to go over and sit on the lounge.      A. Yes.

Q. And he went over and sat on the lounge.

A. Yes.

[80—34]

Q. And you said he lay down.      A. Yes.

Q. How did he lay down on the lounge?

A. Like this (showing) on a pillow. There were two pillows, and he was right on top of them like that.

Q. Then after you lay down, what was the next thing that he did or that you did?

A. Then he got up, and he told me to button my drawers. No, he didn't tell me that; first he kissed me right here, and he said I had been a nice girl and hadn't cried very much; then he kissed me right here and right up here (showing),

Q. What else?

A. Then he buttoned up my drawers, or I think I did it myself.

Q. Which way was it, Selma?

A. I think it was me that did it.

Q. And not the doctor.      A. Yes.

Q. Were you standing up or still sitting down?

A. I was standing up.

Q. Was there anything else that he did or that you did?      A. That is all.

**(Testimony of Selma Lappi.)**

Q. You can't think of anything else.

A. No, I can't think of anything else.

Q. Do you know, Selma, when you were over in the hospital how you happened to go to sleep when this operation was performed?     A. Yes.

Q. How?     A. I took some chloroform.

Q. Do you remember anything about that there?

A. Yes. [81—35]

Q. Did you only take chloroform once?

A. Only once.

Q. Did the doctor ever give you any chloroform again?

A. No, he didn't give me any chloroform, but one time I went over I think with Anita—with my brother once and there was some kind of stuff all around my neck here and he had to take it off with chloroform, and it hurt, and I kind of went to sleep—pretty near went to sleep, but I didn't.

Q. Did it make you sick?     A. Yes.

Q. Did you cry?     A. Oh, a little, I screamed.

Q. Who was there then?     A. My brother.

Q. Anybody else?

A. I think Mrs. Hall was there too.

Q. What did you do then, do you remember; that is, do you remember how it affected you, or how you acted?     A. I cried a little.

Q. Anything else that you remember that you did?

A. That is about all.

Q. That just happened once?

A. Yes. And another time he did it, but he didn't use so much chloroform, and when I started again

(Testimony of Selma Lappi.)

he told me to shut up.

Q. What?      A. He told me to shut up.

Q. He told you to shut up?      A. Yes.

Q. Who, the doctor?

A. Yes. And then I closed my mouth and closed my eyes, and it [82—36] didn't hurt at all.

Q. Did your father ever go to Doctor Hall's office with you while you were having your neck dressed?

A. Yes. Papa went a few times; not so very many times.

Q. What?      A. Only a few times.

Q. Did anything like that ever happen while your father was there?      A. No.

Q. At the time that you speak about when the doctor used a little chloroform, do you remember everything that happened?      A. Yes, sir.

Q. Have you told us everything that happened so far as you were concerned?      A. Yes.

Q. And you just cried?      A. Yes.

Q. Nothing else that you remember of? Do you remember of anything else?      A. That is all.

Q. You say that while you were in there that last time the door was open for awhile.

A. It was open when I went in, and then he closed it.

Q. What did you say about him locking it?

A. No, he didn't lock it.

Q. It was not locked.      A. Yes.

Q. And while you were in there somebody came in there.

A. The men came in there and then while they

(Testimony of Selma Lappi.)

were fixing the pipe he told me to sit down.

Q. Was that before or after he had dressed your neck? [83—37]

A. It was after he had dressed my neck. First he dressed my neck, then the men came in.

Q. How many times did they come in while you were there? A. Once I think; once or twice.

Q. And did they knock when they came in, or did they just come right in? A. Just came right in.

Q. Did you hear Doctor Hall say anything to these men?

A. No. He didn't say anything. I think he said something,—

Q. Did you hear—(interrupted).

A. —but I don't remember what it was.

Q. Do you remember of hearing these men ask the doctor whether—did the doctor say to them to come in? A. Yes, and the doctor said to.

Q. He said for them to come right in? A. Yes.

Q. Do you remember that? A. Yes.

Q. Do you remember hearing the doctor say to them not to knock, to walk right in, "You need not knock"? A. Yes.

Q. "Just attend to your work and come right in"?

A. Yes.

Q. Did you ever hear the name of this other man that was there with Mr. Dundon? A. No.

Q. Did you ever see him since that you remember of?

A. Yes. I think I saw him one time with Mr. Dundon. He was fixing a pipe right close to Ellis' store.



(Testimony of Selma Lappi.)

Q. Did you see the same man there?      A. Yes.  
[84—38]

Q. Did you know Mr. Crossley? Did you ever know a man by the name of Mr. Crossley?

A. I don't think I do.

Q. You don't know even who he was?

A. I have heard the name.

Q. Did you ever see him, or did you ever talk with him?

A. No. I have seen him on the street, I think.

Q. But you never talked with him and he never talked with you.      A. No.

Q. Do you know Mr. Gillette? Have you ever heard that name?      A. Yes.

Q. Did you know him?

A. No, I have not known him, but I have seen him on the street.

Q. And you knew who he was.      A. Yes.

Q. Did you ever talk with him at all?      A. No.

Q. When was the first time you were ever down to this building here and in the office where Mr. Roth is now?      A. I wasn't in this room.

Q. Not in this room, but you remember just as you come upstairs there is a door right at the head of the stairs.      A. Yes.

Q. You have been in there?      A. Yes.

Q. When was the first time you were ever in that room, whether Mr. Roth was there, or whether anybody else was there?      A. Mr. Roth was there.

Q. The first time that you went there?      A. Yes.  
[85—39]

(Testimony of Selma Lappi.)

Q. How long ago is that, about?

A. I think it was about—it was just lately.

Q. About when?

A. It wasn't last week. I don't remember when it was, but it was lately anyway.

Q. Do you remember of being downstairs where a lot of men were that they call the Grand Jury?

A. Yes.

Q. You remember about being there? A. Yes.

Q. Had you talked to Mr. Roth before you talked to these men downstairs? A. Yes.

Q. About how long before that had you talked with him? A. I don't remember.

Q. Had he been up to your house before you came down and talked to these men downstairs?

A. I think he was over there one noon time. Mamma told me about it.

Q. I mean, while you were there.

A. No. He was not over there when I was there.

Q. He never was there when you were there?

A. No.

Q. And the only time that you talked with Mr. Roth, or at least the first time you talked with him was in this office back here.

A. Yes, and I talked with Mr. Roth at home one time.

Q. Afterwards you talked with him at home one time, and was the time that you talked with him up home before or after the time you talked with these men downstairs, the Grand Jury? [86—40]

A. It was afterwards. Yes, it was after.

(Testimony of Selma Lappi.)

Q. And are those times the only times that you have talked to Mr. Roth, or did you talk to him other times?     A. I think that is the only times.

Q. I think you said you might have been up to Doctor Hall's office about a dozen times altogether.

A. Yes, but it might have been a little longer, or not quite that long. I don't remember how long it was.

Q. I don't mean how long at a time; but I mean how many times. I think I understood you to say it was about a dozen times altogether that you were up to his office.

A. It might have been, but I don't remember.

Q. Might it have been less than that or more than that?

A. It might have been more. I am not sure.

Q. And it might have been less?

A. Yes. And it might have been a little more.

Q. Selma, did anything ever happen while you were in Doctor Hall's office like you have been telling us about now on *on* any other occasion that you were there?     A. No.

Q. You say that was the only time you were there alone; the only time you went there that you were there alone.     A. Yes.

Q. You never went there alone.     A. No.

Q. Who were the different people that you went with. You said you were there with your mother and your father and your brother and the little Nordale girl. Was there anybody else? Those were the only people, and you had either one or the other

(Testimony of Selma Lappi.)

of them with you every time you [87—41] *every time you went there except this last time.*

A. Yes.

Q. Now, I don't want to tire you, but I want to go over one feature of this question and ask whether you remember anything else that occurred. You told the jury and told us a little while ago about sitting upon the operating table and his dressing your neck, and after he got all through fixing your neck the next thing he did was to sit down in this chair.

A. Yes.

Q. That is right; there was nothing done in the meantime, and he took you on his lap. A. Yes.

Q. And he said to you that he wanted to see how fat you were, and unbuttoned your drawers.

A. Yes.

Q. And felt how fat you were. A. Yes.

Q. Was there anything done at that time besides his just feeling to see how fat you were?

A. That is all. Then he kissed me right here, and right here (indicating).

Q. While you were sitting in the chair?

A. No.

Q. Well, just a minute. While he was sitting in the chair, and while you were sitting upon his lap, did he do anything besides just feeling to see how fat you were? A. No.

Q. Then after that he asked you to sit on the sofa or on the lounge, or to go over there, and he went over there and he lay down and you lay down, and then he felt you again, [88—42] did he?



(Testimony of Selma Lappi.)

A. Yes.

Q. In the same way he had while you were sitting on the chair?      A. Yes.

Q. Anything else?

A. Yes. Then he kissed me here and he kissed me here (showing).

Q. You mean on the leg right near the knee?

A. Yes.

Q. Then right on the cheek?      A. Yes.

Q. Then what did he do?

A. Then he gave me a piece of candy, and he said I had been a nice girl.

Q. Then what did he do after he had given you the candy?

A. Then I put on my coat, and he told me to come Saturday.

Q. You think you have told us everything that happened there?      A. Yes.

(The Court continues the trial until 10 A. M. Monday, April 19, 1915, and the jury retire, after being admonished in the usual way, in charge of the bailiffs.)

Monday, April 19, 1915, 10 A. M.

Defendant and jury present. Trial resumed.

SELMA LAPPI resumes her testimony on cross-examination.

(Mrs. Lappi, mother of witness, begins to cry, and, on being directed by the Court so to do, withdraws from the courtroom.)

(Mr. MARQUAM.)

Q. Selma, do you know what you are in court here

(Testimony of Selma Lappi.)

for? I mean do you know why you are here testifying, and why we are all [89—43] here? Do you know what we are all doing? (No answer.) Do you know what I mean, Selma? Do you know why you are sitting there now, and being asked questions about what you know about this case? Do you think you do? A. No.

Q. You know Dr. Hall? A. Yes.

Q. Do you see him here? A. Yes.

Q. Do you know why he is here? (No answer.) Do you mean that you don't know? Do you have any idea why he is here?

A. (Nods head in the negative.)

Q. Do you realize, Selma, what it is for a person or a man to be tried before a Court? (No answer.) Do you realize? Do you know what I mean? Do you know what that means? A. No.

Q. You don't know that Doctor Hall is here being tried to find out what he has done in this matter, and that if the things that he is being tried for are found true that he will be punished. Do you realize that, Selma? A. Yes.

Q. Where did you learn that from? Where did you find that out? Do you remember? Did somebody tell you? Just answer the question, if you can; and if you can't, say that you don't know.

A. I don't know.

Q. Do you remember when you were over at Doctor Hall's the last time? A. Yes.

Q. Were you scared or frightened when you were there? A. A little. [90—44]

(Testimony of Selma Lappi.)

Q. Did you go right home from the doctor's office?

A. Yes.

Q. What did you do when you first went home?

A. I went and I told my mamma what he did.

Q. Right away, as soon as you went home?

A. Yes.

Q. Just as soon as you got in the house?

A. Yes.

Q. What did you tell your mamma at that time?

A. I told her that he opened my pants, and he wanted to see how fat I was.

Q. Anything else? Did you tell you mamma anything else just as soon as you got home? (No answer.) Isn't it true that when you went home that you didn't say anything to your mother then until she finally asked you and questioned you? (No answer.) Do you remember what your mother said to you when you went home—the first thing that she said to you when you got home?

A. I don't remember.

Q. Did you speak to your mamma first, or did she speak to you first? A. I spoke to her first.

Q. Just as soon as you got home? A. Yes, sir.

Q. And you went to her and said what you now state? A. Yes.

Q. Are you sure of that? A. Yes.

Q. Did you say anything else to your mother at that time besides what you have already—what you have now said? A. I don't remember. [91—45]

Q. Do you remember what she said? Can you think back to that time and think what your mother



(Testimony of Selma Lappi.)

said to you?     A. I don't remember.

Q. What did she do? If she didn't say anything, what did she do when you said this? (No answer.) Did she keep on asking you questions and talking to you? (No answer.) Or can you think about it? (No answer.) Didn't she say things to you? Didn't she ask you when you went in, what was the matter, or something of that kind, and you said, "Nothing"; didn't you say that?     A. I don't remember.

Q. Just think. You can remember when you went home?     A. Yes.

Q. And got in the house. And just think and see if that is not what you said to your mother; that there was nothing that happened, or you said "nothing happened." See if that is not what you said. (No answer.) Do you think you might have said that?

A. I might have, but I don't remember.

Q. That, you said, was on Friday.

A. Yes. I believe it was on Friday.

Q. And you were to go back to the office the next day.     A. Yes.

Q. Did your mother say that you must not go back the next day?

A. I told her I didn't want to go back myself without my mamma goes, and *he* said I better not go down there.

Q. When did she say that, do you remember? (No answer.) When did she say that, Selma, do you remember?     A. No.

Q. Was that as soon as you got home, or the next day?



(Testimony of Selma Lappi.)

A. I think it was the same day. I don't remember. It might [92—46] have been Saturday, and it might have been Friday.

Q. It might have been Saturday that you said that? A. Yes.

Q. Did you tell your mother that you were to go back again Saturday? A. Yes.

Q. And it might have been at that time that she told you, you say, or it might have been the day you went home? A. Yes.

Q. You don't know. A. No.

Q. Did she talk to you a good deal about what had occurred down at Doctor Hall's office, after you went home? A. Yes.

Q. You say she did? A. Yes.

Q. When did she talk with you?

A. Saturday, and Friday, too.

Q. Friday and Saturday, too? A. Yes.

Q. Did she talk to you any on Thursday about it?

A. I don't remember.

Q. Why do you know that it was on Friday that you went down there?

A. Because I remember it was Saturday. I didn't go to school that day.

Q. That that was the next day after you went there? A. Yes.

Q. That is the reason that you remember that it was Friday. A. Yes.

Q. Who else at that time did you talk with, do you remember? [93—47]

A. I didn't talk with anybody else.

(Testimony of Selma Lappi.)

Q. That is, either Friday or Saturday or Sunday or Monday, or within a few days there, who else did you talk with?     A. I don't remember.

Q. Now, did you ever tell your mamma anything more than what you have told just a minute ago, that the doctor unbuttoned your panties?     A. Yes.

Q. —to see how fat you were?

A. Yes. And I told her that he laid me on the chair and then he laid me on the lounge, and gave me a piece of candy, and he kissed me here and he kissed me there. (Showing.)

Q. That is all you told her?     A. Yes.

Q. Did you ever tell her anything more than that?

A. No.

Q. Did you ever tell anybody else anything more than that?     A. No.

Q. That is all that happened.     A. Yes.

Q. And you told your mamma that the first time you talked with her—all of it?     A. Yes.

Q. Just as soon as you went home.     A. Yes.

Q. You didn't tell her then— If you told her that, then you couldn't have told her when she was talking to you that nothing had happened to you, could you?

A. No.

Q. You said a while ago, as I understood you in answer to my question, if you hadn't said to your mamma when you first [94—48] talked about this thing, that nothing had happened down there. That couldn't be true, could it?

A. No. I went right home and I told her about that.

(Testimony of Selma Lappi.)

Q. You went right home and told her about that?

A. Yes.

Q. The first time you talked with her? A. Yes.

Q. And you told her just exactly what you have told us now just a moment ago. A. Yes.

Q. Do you remember what your mamma said?

A. I think she said, "What did you let him do it for"?

Q. You believe she said that? A. Yes.

Q. When? A. I think it was Friday.

Q. Anyhow, it was the same day that you were down to Doctor Hall's office. A. Yes.

Q. Do you remember of your mother going down to Doctor Hall's office afterwards? Did she tell you anything about that? A. No. She never told me.

Q. Did you go to school Monday? A. Yes.

Q. And you went to school Friday? A. Yes.

Q. There was no school Saturday, and Monday you went to school again. A. Yes.

Q. Did you ever know, or did you know at all at that time, that your mother went down to Doctor Hall's office? A. No. [95—49]

Q. You never heard about that. A. No.

Q. Did you talk to her any Sunday about it?

A. I don't remember.

Q. How many times and how often did you and she talk about it since that time, do you remember?

A. Not very many times.

Q. Did you say, "Very many times," or "not very many times"? A. It was not very many times.

Q. Do you know Doctor Bradley? A. Yes.



(Testimony of Selma Lappi.)

Q. Did you ever talk with her?      A. No.

Q. And you never have talked with her at any time?      A. No.

Q. How do you know who she is?

A. Because I have seen her on the street.

Q. And she has never talked with you.      A. No.

Q. Do you come home for lunch from school?

A. Yes.

Q. Say, after Monday, did your mother tell you, or did you know, that after she had been down to Doctor Hall's office that she had been down there? Did you ever know that?      A. No.

Q. You never knew it up to this time, and you don't know it now, of course?      A. No.

Q. You don't know whether she was ever at Doctor Hall's office.      A. No.

Q. When you went down to Doctor Hall's office, do you remember [96—50] that—were you afraid of this chloroform he used to wipe your neck off with after he had dressed your wound; were you afraid of that when he used that to take off this?      A. Yes.

Q. You were afraid of that.      A. Yes.

Q. Do you remember any time he used that?

A. He didn't use it every day. He only used that twice.

Q. What did he use it for, do you know?

A. Because there was some kind of stuff right around here, and he used to take it off. (Indicates neck.)

Q. And you say he only used that twice.

A. Yes, only twice.



(Testimony of Selma Lappi.)

Q. Do you remember when that was?

A. I don't remember.

Q. But you remember it was only twice. How do you remember that?

A. Because one day I know there was some kind of stuff there and he had to take it off, and the next day I remember he took it off, too.

Q. One day, and then the very next day?

A. I don't know if it was the very next day or not.

Q. Do you remember what you did on those occasions? A. I cried.

Q. What else? Did you say anything.

A. I told him not to do it.

Q. Anything else? A. I think that is all.

Q. Just cried and told him not to do it. Where were you sitting or what were you doing in the office?

A. There was a table there, and I sat on that.

[97—51]

Q. You were sitting up on the operating-table.

A. Yes.

Q. And he was dressing your neck. A. Yes.

Q. Did you sit right there when he was doing this?

A. Yes.

Q. Were you sitting up all the time? A. Yes.

Q. You don't remember what you said at all, except not to do it.

A. Yes, and I cried a little. I told him not to do it, and I cried.

Q. That was all that you did.

A. I think that is all.

Q. Do you remember who was there at that time,

(Testimony of Selma Lappi.)

or at any of these times?

A. I think my brother was once. No, my brother wasn't. I think it was my mamma both times.

Q. You think it was your mamma both times.

A. Yes.

Q. Do you remember about when that was? I mean by that; was it towards the last time, or near the last time, that you went there, or the first time that you went there, or when was it? You went to Doctor Hall's office a good many times.

A. Not so very many times.

Q. You said the other day you thought about a dozen times—about a dozen times. A. Yes.

Q. Was it the first, second, third or fourth time, or towards the last—the ninth, tenth, eleventh or twelfth time? [98—52] Can you tell us when this happened, about? A. No.

Q. Do you remember upon at least one of these occasions when chloroform was being used upon your neck that you not only cried, but that you screamed and said to Doctor Hall, "Don't spank me. Don't spank me. I will be good. I will be a good girl." Do you remember saying that? (No answer.) Think, and see if you can remember that.

A. I don't think so.

Q. Now, that I call your attention to it, don't that make you remember that at one of those times when chloroform was used upon your neck and you found out what it was, that you repeated just what I have recited, "Don't spank me. I will be a good girl," or something to that effect? Don't you remember say-

(Testimony of Selma Lappi.)

ing that?      A. No.

Q. Don't you remember when that occurred that your held your finger over your nose and over your mouth?      A. Yes.

Q. And didn't breathe?      A. Yes.

Q. And almost strangled?      A. Yes.

Q. Do you remember about that?      A. Yes.

Q. Why did you do that?

A. Because it made me go to sleep a little, and it smelled bad.

Q. And you didn't want to smell it?      A. No.

Q. And when you did get the smell of it, you held your nose. And do you remember getting very red in the face and [99—53] holding your breath?

A. Yes.

Q. Don't you remember further upon at least one of these occasions of saying what I have just asked you about, "Don't spank me. Don't spank me. I will be good," something to that effect? Do you remember that?      A. I don't remember.

Q. It might have been, you think?

A. It might, and it might not.

Q. If it did happen, why would you think of that? The doctor never spanked you, did he?      A. No.

Q. You say it might have happened. If it did, why would you say that, do you think?

(Plaintiff's attorney objects to question; question withdrawn.)

Q. Selma, tell me this: Has your mamma not punished you at home, spanked you very much?

A. No.

(Testimony of Selma Lappi.)

Q. She never has?      A. A few times.

Q. Just a few times?      A. Yes.

Q. What was it that frightened you on these occasions when the doctor dressed this neck? Did you know the chloroform bottle when you saw it?

A. Yes.

Q. Where the doctor used to put a drop or two on cotton on your neck, you knew it when you saw it.

A. Yes.

Q. You got scared when you saw the bottle.

A. Yes. [100—54]

Q. You had remembered it from the hospital when they gave it to you.      A. Yes.

Q. And sometimes it was the looks of the bottle and sometimes the smell of the chloroform.

A. Yes.

Q. And you would get a faint smell of it and that would scare you.      A. Yes.

Q. Do you remember upon several of those occasions, or at least upon some of them, when you would see the bottle or get the fumes of the chloroform, that you not only held your breath but straightened back and fell back on the operating-table? Do you remember that?      A. Yes.

Q. Fell right back on the operating-table until the chloroform would be put away?

A. Yes, and I would hold my eyes so it wasn't going to smart. I would do like this (showing).

Q. You do remember stiffening yourself up and crying and trying to prevent, to protect yourself from any of these fumes, and on one or two occasions



(Testimony of Selma Lappi.)

you fell right back on the operating-table. Do you remember that? A. Yes.

Q. You think that upon these occasions your mother was there twice. Aren't you mistaken about that?

A. I think so. I think she was there, or my papa might have been there.

Q. Wasn't your papa there once when that occurred?

A. Yes, he was there once, and mamma was there once.

Q. Do you remember that your papa upon that occasion when you [101—55] were crying and doing these things that you were telling about, had to take hold of you and shake you and say that you must stop that. Do you remember him telling you that; that the doctor wouldn't hurt you, and was only doing what was necessary to be done? Don't you remember your papa doing that? A. No.

Q. You don't remember that. Just think. It is probably hard for you to remember all these things. (No answer.) You say once your papa was there and once your mamma was there.

A. My papa was there twice, but only at one time when papa was there he gave me chloroform; that was all.

Q. Is that one of the two times you were talking about?

A. There were three times, because we went over there one time, and the next day I had to go to the hospital. That was when my neck was going to be operated on.

(Testimony of Selma Lappi.)

Q. That was three times that you went through this experience.     A. Yes.

Mr. ROTH.—That was not what she said. She said her papa was there three times.

Mr. MARQUAM.—Q. Explain that again.

A. My papa was there three times, but only one time when papa was there did he give me chloroform.

Q. How many other times was there chloroform around there besides the time that your papa was there?     A. I don't remember.

Q. You said a while ago that your mother was there you think twice. Now, would that be three times altogether?

A. My mamma was there with me once when he gave me chloroform, and when—(interrupted).

Q. Listen. You don't refer to the time over at the hospital?     A. No. [102—56]

Q. I am talking about his office.     A. Yes.

Q. Just once, and once while your papa was there.

A. Yes.

Q. That was twice.     Yes.

Q. Was that all the times that you say he gave you chloroform?     A. Yes.

Q. When you say he gave you chloroform, you mean he cleared the stuff off of the neck that was there. That is what you mean by that.     A. Yes.

Q. And there was only twice during all the time that you were there at the office that that occurred.

A. Yes.

Q. You know Mrs. Hall, Doctor Hall's wife?

A. Yes.

(Testimony of Selma Lappi.)

Q. Don't you remember this happened when Mrs. Hall was there?     A. Yes.

Q. That would be another time.     A. Yes.

Q. That would be three times.

A. She was in there when my papa was there, at the same time.

Q. Wasn't you there in the office, Selma, when nobody but you and Mrs. Hall was there, when the doctor used this chloroform, and you held your hands over your nose and screamed and cried and fell back on the table? Do you remember that?

A. I don't remember.

Q. But you do remember that Mrs. Hall was there on one of these occasions, but you think it was while your papa was there. {[103—57]}

A. Yes, I remember one time. I don't think my mamma was ever there when he gave me chloroform, but I think Mrs. Hall was there when I was down there and my brother was there and that he gave me chloroform.

Q. Altogether how many times would that be; would that be three times?

A. Twice. My mamma wasn't there when he gave me chloroform.

Q. Your mamma was there once when he gave you chloroform, and your papa was there once when he gave you chloroform. Was it on one of these occasions that Mrs. Hall was there, as you remember it?

A. I don't remember.

Mr. ROTH.—Pardon me. She has just stated that she didn't think her mother was there at all



(Testimony of Selma Lappi.)

when she got the chloroform. That was her last answer.

Mr. MARQUAM.—Q. Was your mother ever there when you say the doctor gave you chloroform?

A. I think not,

Q. You thought a while ago that you did think so.

A. Yes.

Q. And you think now that she was not.

A. Yes.

Q. We want to get the truth, Selma, that is all. As I understand now, your father was there on one occasion. A. Yes, sir.

Q. Who else was there with him at that time besides yourself and Doctor Hall?

A. My brother and my papa was there and me and Doctor Hall.

Q. Your brother and yourself and your father were there and Doctor Hall on this one occasion.

A. Yes. [104—58]

Q. And on the other occasion who else was there?

A. I think it was Mrs. Hall and me and—

Q. And who else? You don't remember? Can't you think who else was there when Mrs. Hall was there? (No answer.) Are you not mistaken about the number of times that you say the doctor gave you chloroform; that it was a great many more times, whenever it was necessary to take off these bandages that were sticking to your skin here? Didn't he have to use chloroform to take them off?

A. No. He just pulled it off with his hand. It was kind of sticky stuff.



(Testimony of Selma Lappi.)

Q. The last time that you were there, just think and tell us just exactly what happened on that occasion about the use of chloroform. Did the doctor use some chloroform the last time you were there to clean your neck off?

A. The day when he opened my panties?

Q. That is the time we are talking about.

A. No.

Q. While he was dressing your neck?

A. No, he didn't need to do that. I didn't need to have no bandages around at all, or he didn't need to put any kind of stuff on me at all.

Q. What did he do?

A. Well, just a handkerchief around is all.

Q. Was there a handkerchief on your neck when you went there?      A. Yes.

Q. There was not any dressing or anything else on the neck at all?

A. No, just a handkerchief.

Q. Do you remember, do you know what kind of stuff it was that the doctor put on your neck after he dressed it that [105—59] would stick to your skin? Do you know what that was?

A. I know the name of it, but I forget.

Q. Adhesive tape?      A. Kind of yellow-like.

Q. That would stick to the skin?      A. Yes.

Q. Kind of like glue?

A. He didn't put that on that day.

Q. When he dressed your neck here the last time you were at the office, don't you remember of part of that tape being fastened to your hair in here under

(Testimony of Selma Lappi.)

the handkerchief, and that was cleaned off, and chloroform was use to do that? Don't you remember that? Just think and see if you can remember that. Can you think of that?

A. No. I can't remember.

Q. Do you remember at any time you were sitting up on a table like this—the operating-table?

A. Yes.

Q. And the doctor would be working around your neck, that when you would see this chloroform bottle you would stiffen yourself out and throw yourself right out on the table? A. Yes. I think I did.

Q. Do you remember upon one occasion at least of that kind that the doctor, to get you to sit up, had to hold his hand like this on your stomach (showing) and raise you up, force you up like this? A. Yes.

Q. Didn't he do this upon this occasion that you were there the last time?

A. The time he opened my panties.

Q. That is the time, the time you were there the last time [106—60] when he was dressing your neck. Do you remember that?

A. No. He didn't do that.

Q. You are sure of that? A. Yes.

Q. Do you remember at any time you say he gave you chloroform of being sick at the stomach, of being a little sick at your stomach, and your stomach hurting you? Do you remember that?

A. I think so. Yes.

Q. Do you remember, when you complained of feeling that way, that the doctor massaged your

(Testimony of Selma Lappi.)

stomach? Do you know what massage means?

A. Yes.

Q. Did the doctor ever do that when you felt—  
(interrupted). A. No.

Q. He didn't? A. No.

Q. Are you sure of that, Selma? A. Yes.

Q. Did Doctor Hall ever give you any candy except upon this occasion that you are talking about?

A. Yes.

Q. Mrs. Hall gave you candy, did she, when she was there? A. Yes.

Q. How many times did you see Mrs. Hall there?

A. Quite a few times. Not so very many; once or twice.

Q. What?

A. I think it was about four or five times.

Q. Every time she was there and saw you would she give you candy? A. No. [107—61]

Q. How many times did Mrs. Hall give you candy? A. About twice.

Q. How many times did the doctor ever give you candy, do you remember? A. One time.

Q. Just once? A. Yes.

Q. Selma, do you remember who you have ever talked to about this matter besides your mother?

A. Only my mamma.

Q. Never to anybody else? A. No.

Q. What do you mean; that you never have talked to anybody else besides your mother about it?

A. I only talked to my mamma.

Q. Do you mean before you came into court, or

(Testimony of Selma Lappi.)

that you have only talked to your mother?

A. The first time I came home I told her about it.

Q. Just now you said you never talked to anybody about it except your mother. You remember you were here last Saturday.

A. Yes. And I talked to Mr. Roth about it too.

Q. When first?

A. I don't remember. It was lately.

Q. Where was this? A. At his office.

Q. Anywhere else? A. I don't remember.

Q. Anybody else that you ever talked to? Did you ever talk to your papa about it? [108—62]

A. No.

Q. Has your papa been home since that time?

A. Yes, he was home. I think my mamma talked to him about it.

Q. Did he ever ask you anything about it?

A. No.

Q. He never said a word to you? A. No.

Q. Nobody ever talked to you except your mother at home. A. Yes.

Q. How long was your papa home after you were down at the office—was he home the day you went back up there and told your mamma? A. No.

Q. Where was he then? A. He was in Ruby.

Q. He came back after that and you saw him?

A. Yes.

Q. Did he ever ask you anything about it?

A. No.

Q. Did you hear your mamma tell him anything about it?



(Testimony of Selma Lappi.)

A. I think she told him about it.

Q. Did you hear her tell him about it?      A. No.

Q. How do you know that?      A. I just think so.

Q. He never said anything to you about it, never asked you any questions about just what occurred, or anything about it.      A. No.

Q. Do you know where he is now?

A. Tolovana. [109—63]

Q. I want to ask you about a statement you made the other day about this couch. You said to the jury that Doctor Hall lay down on the couch.      A. Yes.

Q. Now, just what do you mean by that—how did he do that?

A. He just lays down like that (showing).

Q. This is the corner of that room, and a wall here (indicating). Is there a couch right along in the corner?      A. Yes.

Q. Is there a lot of pillows upon it?      A. Yes.

Q. Do you mean that he lay down upon that, or sat down on the couch and leaned up against the pillows?      A. He sat down like this (showing).

Q. Did he sit down upon this couch and lean back on these pillows, or lie the full length of the couch?

A. No, he was just like this (showing).

Q. With his head back on the pillows.      A. Yes.

Q. He was sitting down on the couch.

A. Yes. He went like that, I believe (showing).

Q. You told the jury you were lying down on the couch. Weren't you sitting down on the couch leaning up against the pillows, too?      A. Yes.

Q. Selma, did you ever tell this to your mother;

(Testimony of Selma Lappi.)

that while you were down at the office that Doctor Hall opened your little panties and kissed you on the bottom?     A. Yes.

Q. When did you tell her that?

A. I told her the same day. [110—64]

Q. Was that true?

A. Yes. Right here and right here (indicating).

Mr. ROTH.—She didn't understand your question.

Mr. MARQUAM.—Q. I asked you if you ever used those words to your mother, that I just now repeated to you, do you remember?

(Objection and suggestion by plaintiff's attorney that witness does not understand the question.)

Q. Let me examine the witness. Do you remember if you ever used these exact words to your mother, not words meaning the same thing, but these exact words, "that Doctor Hall opened my drawers or panties," either one or the other, "and kissed me on my bottom," Did you use those words to your mother in telling about this, or did she ever use those words in your presence to you?

A. I told her he unbuttoned my panties and kissed me here and he kissed me here (showing).

Q. You never told her anything else.

A. Well, and I told her he gave me a piece of candy, and he feeled me all around, and lay on the couch and I lay down too, and—(interrupted).

Q. What else, if anything?

A. I don't remember.

Q. Well, then, would you say that you did or did

(Testimony of Selma Lappi.)

not say to your mother at any time that Doctor Hall unbuttoned your clothes, or unbuttoned your drawers, and kissed you on your bottom? Did you ever say that to her? (No answer.) Try and think and tell us just exactly whether you did or didn't.

A. Told her that he unbuttoned my panties.

Q. You understand the question I asked you. Say whether you did say that or didn't say that to your mother, if you can. [111—65]

(Plaintiff's attorney desires that question be re-eatepd.)

Q. This is what I wish you to answer: If you ever told your mother that Doctor Hall had opened your panties and kissed you on the bottom, just in those words. A. Yes.

Q. Did you tell her that in those exact words?

A. Yes.

Q. When did you tell her that?

A. I told her the same day when I got home.

Q. Was that the first thing that you said to her?

A. Yes.

Q. Just in those exact words? A. Yes.

Q. Why did you tell us a while ago that you went home—why didn't you tell me a while ago when I asked you what you said, why didn't you tell me that?

A. I went home and I told her that he unbuttoned my panties and he put me on the chair and he sat down too and feeled me all around, and he lay down on the lounge and did like this (showing),—sat down on the lounge like that and he feeled me all around,

(Testimony of Selma Lappi.)

and he kissed me here and he kissed me here (showing), and he told me I was a nice girl, and he gave me a piece of candy.

Q. That was just what you told your mother.

A. Yes.

Q. And when did you tell her that Doctor Hall opened your drawers or panties and kissed you on your bottom? When did you tell her that, do you remember? (No answer.) Did you ever tell her that? . (No answer.)

Mr. ROTH.—Here is the proposition—(interrupted).

Mr. MARQUAM.—I object to counsel making explanations in the [112—66] presence of the witness.

The COURT.—Go ahead.

Mr. ROTH.—Here is the proposition: He puts two propositions, one of which she has been answering right along.

(Argument.)

The COURT.—(To Mr. Marquam.) You may ask the question again.

(Mr. MARQUAM.)

Q. Do you understand the question I have been asking you,—do you understand what I was asking you just a minute ago? If you don't understand what I mean, then you tell me so I can make it plain to you. I want you to tell us now—

A. I don't understand.

Q. I will try and make it plain to you. Tell us whether or not you told your mother when you went



(Testimony of Selma Lappi.)

home that Doctor Hall had opened your panties, or you may have used the word “drawers”—

The COURT.—Let that stand as one question.

Mr. MARQUAM.—I don’t want to let it stand as one question. I am asking her if the statement was just as I put it. I have every reason to ask that question in the words I have put it. When I am asking whether a conversation or statement was made I shouldn’t be compelled to ask her whether she said a part of it, but I have a right to know if that statement was made.

The COURT.—Suppose you try her by asking her about one part of the statement, and then the second part.

Mr. MARQUAM.—That is not what I want. We have good reason for asking the question in just the words that I put it in. I don’t care to discuss the reason now, but the Court will understand that if a dispute arises as to whether or not a certain statement was made, the Court can surmise why I am asking this question. I should not be compelled to [113—67] disclose my purpose.

The COURT.—You will not be compelled to You may ask your question.

(Mr. MARQUAM.)

Q. Answer this question, if you can: whether you told your mother on the day that you went home, or any subsequent day, that Doctor Hall opened your panties and kissed you on your bottom.

A. Yes, I told her that.

Q. You told that to your mother? A. Yes.

(Testimony of Selma Lappi.)

Q. When did you tell her that?

A. The same day.

Q. After you had told her these other things that you have told us about?

A. I told her those first. I told her that he opened my drawers, then he laid me on the chair and he laid me on the lounge, and he kissed me here and he kissed me here (showing) and then he gave me a piece of candy. That is just what I told her.

Q. And you say that you did tell your mother that he had opened your drawers or your panties and kissed you on your bottom. A. Yes.

Q. Selma, can you give us any idea how many times you have made this statement as to what happened down there to your mother or to Mr. Roth or to anybody else,—how many times have you repeated it?

The COURT.—Do you mean here in the court-rooms?

Mr. MARQUAM.—Q. No, altogether from the time that you first went home and up to the present time, how many times do you think you have been called upon to tell that? [114—68]

A. I don't remember.

Q. You have no idea? A. No.

Q. There is just one thing I want to make clear. You told me a while ago that you remembered when you were over in the hospital when you had an operation performed. A. Yes.

Q. Put back your hair. If there is no objection to the child showing this cut upon her neck. Is this

(Testimony of Selma Lappi.)

the cut that the doctor was dressing? (Indicating.)

A. Yes.

Q. Was there any on the other side? A. No.

Q. When this operation occurred the doctor gave you chloroform and you went to sleep. A. Yes.

Q. And it was put right over your nose—something was put over your face? A. Yes.

Q. That was not what you meant by the doctor giving you chloroform in the office?

A. No. He just took some chloroform and rubbed it on my neck.

Q. Took a little cotton and put some on and rubbed it over to take this stuff off. That is what you mean? A. Yes.

Mr. MARQUAM.—That is all.

Redirect Examination.

(By Mr. ROTH.)

Q. Did you understand what the gentleman meant when he asked you if you told your mother that Doctor Hall kissed you on the bottom,—do you understand what kissing on the bottom [115—69] means? A. Yes.

Q. What does that mean? A. On the skin.

Q. This part of the body back here (indicating). do you ever hear that called the bottom? Where you sit down,—did you ever hear that called the bottom? A. Yes.

Q. Did you tell your mother that Doctor Hall kissed you on the bottom, the sit-down place?

A. No.

Q. You never told your mother that.



(Testimony of Selma Lappi.)

A. He never kissed me there.

Q. He never kissed you there at all. Now, Selma, I want you to show me here just exactly how Doctor Hall lay down on that lounge. You come down here, and say this was the lounge; get down and show us. Get down—

Mr. MARQUAM.—Let the child do that.

Mr. ROTH.—I am examing this witness. Q. Show me how Doctor Hall lay down on the lounge.

A. Like this (showing).

Q. Where were his feet on the lounge?

A. They were hanging down.

Q. Where were you?

A. Right here (showing).

Q. Where was your head?

A. My head was right here (showing).

Q. Where was Doctor Hall? I will ask you, was one of his arms around you when he was leaning down on the lounge? A. I don't remember.

Q. When you talked about this being a lounge, was that the [116—70] operating-table that you were talking about? A. No.

Q. When you went home that first day, did you tell your mother when you said he felt you all around,—did you tell your mother that he put his hand on you here (showing)? When you first came home, did you tell her that? A. Yes.

Mr. MARQUAM.—I think that counsel should not put the questions in that leading way and demonstrate by these motions. It is easy enough to get answers from this child by suggestion, and I don't



(Testimony of Selma Lappi.)

think that is proper examination.

The COURT.—I do not expect counsel to make questions too leading, but the jury and the Court understand that in examining a witness of this age it is not possible to pursue the same line of examination that you would with an older witness.

Mr. ROTH.—That is exactly what the witness did.

Mr. MARQUAM.—On your suggestion, yes, but she never did it since.

Mr. ROTH.—That is what the witness did when Mr. Marquam was examining her; that is why I remembered it.

The COURT.—Proceed with the examination.  
(Mr. ROTH.)

Q. Selma, you told Mr. Marquam that you talked to Mr. Roth in his office. Do you remember whether or not you talked to Mr. Roth up at your house? Did you see me up at your house? A. Yes.

Q. Did you talk to me there, or did I ask you any questions there at your home? (No answer.)

Mr. ROTH.—Well, that is all right. I guess the child is tired. That is all.

Further Cross-examination.

(By Mr. MARQUAM.)

Q. Did Mr. Roth ever talk to you at your house? [117—71] A. I think he did.

Q. You say that you think he did. Don't you remember whether he did or not, clearly?

A. Do you mean up there?

Q. Yes, at your house. (No answer.) What do you think about it? (No answer.)

(Testimony of Selma Lappi.)

Mr. MARQUAM.—Are you willing to stipulate what the fact is?

Mr. ROTH.—Yes. I talked to her up there. At least, I talked with her up there after I had seen her at the office.

Mr. MARQUAM.—That is all.

Mr. ROTH.—That is all.

(Five minute recess, jury in charge of bailiffs.)

After recess; jury and defendant present; trial resumed.

**[Testimony of Mrs. John Lappi, for Plaintiff.]**

Mrs. JOHN LAPPI, a witness for plaintiff, after being first duly sworn, testified as follows, to wit:

Direct Examination.

(By Mr. ROTH.)

Q. What is your name? A. Mrs. John Lappi.

Q. Where do you reside? A. In Fairbanks.

Q. Whereabouts in Fairbanks do you reside?

A. On 11th and Cushman Streets.

Q. Where did you live before coming to Fairbanks? A. On Fairbanks Creek.

Q. How long did you live on Fairbanks Creek?

A. Since the spring of 1906.

Q. What was your husband engaged in on Fairbanks Creek? A. He was mining, operating.

Q. On what part of Fairbanks Creek? [118—72]

A. On several different claims.

Q. At several different places on the creek?

A. Yes.

Q. How many children have you?

A. I have two.

Q. Is Selma Lappi your daughter? A. She is.

(Testimony of Mrs. John Lappi.)

Q. You have a son, too?      A. I have.

Q. Is the son older or younger?

A. He is two years younger.

Q. How old is your daughter Selma?

A. She is nine the 25th of July, 1914.

Q. She will be ten next July?      A. Yes.

Q. Did you have occasion to have her neck treated some time in 1914?      A. I had.

Q. What was the matter with her neck?

A. Enlarged glands.

Q. Where did you take her to have her treated?

A. I took her to Doctor Hall's office some time last spring to have him examine her neck.

Q. Who was with you, if anyone, at that time?

A. Just my daughter and I the first time.

Q. Did you make arrangements at that time with him for having the child treated?

A. I did, but I postponed it. I decided not to do that until later, or in July.

Q. When were final arrangements made with Doctor Hall, if they were finally made? [119—73]

A. About the 23d of July when I came in from Fairbanks Creek.

Q. Who was with you at the time at Doctor Hall's office that you made final arrangements with him?

A. I was just there with my daughter.

Q. What financial arrangements were made with Doctor Hall at that time?

A. Well, we were to have that neck operated on or lanced on the 25th day of July, and he was to get a hundred dollars for that operation and the treatment.

(Testimony of Mrs. John Lappi.)

Q. Did you pay him?

A. We paid him sixty dollars just before—that was before my husband went down to Ruby.

Q. What day did your husband go to Ruby?

A. On the 24th day of September.

Q. Was that operation performed on the glands of Selma?

A. Yes, on the 25th day of July. It was just lanced, that swelling.

Q. It was lanced on the 25th of July?      A. Yes.

Q. What else was done?

A. Then later it was operated on, and she took chloroform.

Q. When was that?

A. That was—I don't just remember the date, but it was the first part of August, probably two weeks after the first time.

Q. Where did this operation take place?

A. At the St. Joseph's Hospital.

Q. Where was the lancing done?

A. At the same place.

Q. How long did Selma remain at St. Joseph's Hospital after the operation?

A. I think five days. I was there with her.

[120—74]

Q. How long did she remain there?

A. Just the five days.

Q. You took her away with you when you left?

A. Yes, I took her away.

Q. Where did you take her?

A. I took her home then.



(Testimony of Mrs. John Lappi.)

Q. Out on Cushman Street, where you live now?

A. Yes.

Q. Now, what treatment, if any, did the child receive with reference to the healing of the wound caused by this operation, after you had brought her home?

A. Well, I took her to Doctor Hall's office every day then to have it treated. He kept the wound open and he dressed it every day and bandaged it.

Q. For how long a time?

A. Until the 24th day of September.

Q. You say you took her there?

A. I took her there at that time, but it was before the last operation. She stayed with Mrs. Nordale six or seven days when I went out to the creek, and then little Anita Nordale went down with her at that time?

Q. After the final operation?

A. Yes, I took her there myself.

Q. Did you take her there yourself every time that she went there?

A. Not at all times I didn't.

Q. Explain that to the jury so they will understand it.

A. I took her there until—well, I took a trip out to Fairbanks Creek and I left her with the Sisters at the hospital for four days, and when I came back from there I took her home again with me, and then I went down with [121—75] her until I stepped on a nail and my foot was sore, and I sent my little

(Testimony of Mrs. John Lappi.)

son with her, and I think probably about three times she went there alone.

Q. Alone?      A. Alone, yes.

Q. Well, when was the last time that she went there?      A. The 24th day of September.

Q. How do you know the date?

A. Because that was the day my husband left town for Ruby.

Q. Left Fairbanks to go to Ruby?

A. To go to Ruby, yes.

Q. Do you know what day of the week it was?

A. I think it was on Thursday, the 24th day. We could look in a calander and see that.

Q. You think it was Thursday?

A. Well, the 24th day.

Q. The 24th day of September, 1914.

A. Yes, sir, 1914.

Q. Who went with her to Doctor Hall's office that day, if you know.      A. No one.

Q. She went alone.

A. She went alone, because the little boy of mine—I wanted him to go, being I was suspicious of gossip.

Q. You say you wanted the little boy to go.

A. Yes.

Q. But he didn't go.

A. He cried and said he wanted to play with the boys, and I let her go alone.

Q. All right. Now, what time did she leave the house on that day? [122—76]

A. It was after school. I think it was just about

(Testimony of Mrs. John Lappi.)

three o'clock. The child got off from school some time past 2, or some time about a quarter to 3.

Q. That was last year.

A. That was last year. Yes.

Q. Did she come home before she went to the doctor's office from school? A. She did.

Q. How long did she remain home before she started for the doctor's office?

A. Just a few minutes for me to get her ready to go down.

Q. How long was she gone from the house before she came back?

A. Just about half an hour, or probably not that long; but I think it was just about half an hour.

Q. That she was gone altogether?

A. That she was gone.

Q. You saw her appearance when she got back.

A. Yes.

Q. What was her appearance when she got back?

A. She was very, very excited.

Q. Well, what did she say to you?

A. She said to me: "My darling mamma. I am not going down again."

Q. Go ahead and state everything that she said to you.

A. She didn't have the door hardly shut when she said that, and she didn't have her coat off, that is, her rain coat. She said, "My darling mamma. I am not going down again." I said, "Why?" And she said Doctor Hall took her on his lap and opened her little clothes and was feeling her. And I said,

(Testimony of Mrs. John Lappi.)

“Is that so?” And she said, “Yes; Mamma dear.”

[123—77] And I was almost in hysterics. (Cries.)

Q. Is that all she told you at that time?

A. At that time I said, “Where?” And she showed me where he felt her, and that was all at that time.

Q. Where did she show you?

A. She showed me where it was, all over here (showing), and at her little person, down on her person. (Cries.)

Q. Did you afterwards go to Doctor Hall’s office?

A. Not that day, Mr. Roth. I was crazy. I walked the floor three days and four nights without a bit to eat. (Cries.)

The COURT.—The question was; Did you go that day? And you answered it by saying that you did not.

A. Not that day.

The COURT.—Just answer his questions, just what he asks you.

(Mr. ROTH.)

Q. What day did you go? A. On Monday.

Q. What time of day on Monday did you go there?

A. That was a little before 10 o’clock.

Q. In the morning? A. In the morning, yes.

Q. Was Doctor Hall in his office when you got there? A. Not at that time.

Q. Did you leave his office? A. I did.

Q. Where did you go?

A. Down to the postoffice, and I returned—went back to Doctor Hall’s office.



(Testimony of Mrs. John Lappi.)

Q. Was he there when you got there?      A. No.

Q. What did you do when you got there? [124—  
78]      A. I sat there in the rocking-chair.

Q. In which room?      A. In the sitting-room.

Q. Did you see Doctor Hall?

A. Yes. A few minutes after I had been there he came in.

Q. Describe what occurred when Doctor Hall came.

A. Excuse me a minute. My heart is in my throat.

Q. Will you have a drink of water?

A. If you please. (Takes a drink.)

Q. Where did Doctor Hall come from when you first saw him?

A. I don't know. He opened the door.

Q. Which door?

A. The sitting-room door from the outside and he came in.

Q. Now, just tell this jury what his appearance was when you first saw him.

A. He was very pale, and he didn't come in like he used to do. He used to come in and open the door and say, "Good morning." That day he opened the door very little. He said to me, "Good morning." I didn't answer. He said something else, and I didn't answer. And then I told him, I said, "What do you mean?" He said, "What do I mean?" I said then, "When you tackle an innocent child?" (Cries.)

Q. What did he say then?

A. He said, "tackling an innocent child?" I said,

(Testimony of Mrs. John Lappi.)

“Yes. When you go and open her drawers and go to feeling her.”

Q. Well, what did he say?

A. He said, “That is a lie.” I said, “My child don’t lie,” and she don’t.

Q. What else did he say?

A. He came to me and said, “Sh, Mrs. Lappi, not so loud.” I told him I wasn’t afraid of anybody, “I know what I am saying.” [125—79]

Q. What did he say further?

The COURT.—Mrs. Lappi, keep quiet, and please don’t speak so loud, and take your time in answering the questions, and answer only the questions which the district attorney asks you.

WITNESS.—Your Honor, you must excuse me.

The COURT.—But you must control yourself when giving your testimony.

WITNESS.—I must, yes.

(Mr. ROTH.)

Q. What did the doctor say? Was there anything said upon the subject of Selma being fat?

A. Yes.

Q. What was said about that at that time?

A. Well, I told him that Selma said to me that he felt her all over and wanted to see how fat she was getting, and I said that he kissed her.

Q. Did you say where he kissed her? Where did you tell him?

A. I think I said that he kissed her little bottom. But later she told me it was a little above her knee that he kissed her.

(Testimony of Mrs. John Lappi.)

Q. Well?

A. And he said to me, "She lies, because I was only feeling her arms and all over here (showing). I said, "You are lying. My child don't lie."

Q. What else occurred?

A. He opened the door and he said he wanted some witnesses, or to go to Mr. Crossley. He opened the sitting-room door that goes in the hallway and told me to go to Mr. Crossley. I said, "Yes. I am not through with you." And we both stood [126—80] there in the hallway, and I pointed my finger at him and I said, "Old man, you wouldn't be president of these lodges very long if I can help it." He shivered and went in the sitting-room, and I kept on talking, that if he ever tackled my child, I would shoot him, and I wanted to shoot him then, but my children need me.

Q. Never mind about that.

The COURT.—Just answer the questions.

Mr. ROTH.—Q. Then did you leave?

A. I kept on talking, and on the steps I said, "You tackle some older people, and leave the innocent children alone," and I warned him not to ever speak to my child, or ever lay his hand on my child; and not an answer from him.

Q. Is that the last time you ever talked to Doctor Hall? A. That is the last time.

Q. Did you settle for the balance of the bill?

A. No. He never presented the bill.

Mr. ROTH.—Now, you may cross-examine.

(The Court takes a recess until 2 P. M. to-day, and the jury retire in charge of the bailiffs, after having been admonished as usual by the Court.)

Monday, April 19, 1915, 2 P. M.

Jury and defendant present. Trial resumed.

Mrs. JOHN LAPPI resumes her testimony.

Cross-examination.

(By Mr. MARQUAM.)

Q. Mrs. Lappi, how old did you say your child was?

A. She was nine years old the 25th of July, 1914.

Q. Where was she born?

A. On Dominion Creek, Yukon Territory.

Q. In the Dawson country?

A. Yes, sir. [127—81]

Q. When did you first move down here to Fairbanks? A. That was the spring of 1906.

Q. And Mr. Lappi, since that time, has been engaged, to a considerable extent, in mining on Fairbanks Creek? A. He has.

Q. And you have been out there part of the time?

A. I have.

Q. And the children have been out there, too?

A. Yes,

Q. When did you first meet Doctor Hall, or know him, that is, in a professional way?

A. I think it was in March, last winter, and year ago this March, the first I ever saw him. That was in his office.

Q. The cause of your seeing him at that time was by reason of your taking your daughter up there?

A. Yes.



(Testimony of Mrs. John Lappi.)

Q. For consultation or advice as to what ought to be done?     A. Yes.

Q. And he advised, at that time, that an operation ought to be performed, did he not?     A. Yes.

Q. And you then, after that, moved out to Fairbanks Creek?     A. We did, yes.

Q. Was there any special reason at that time for not following the doctor's advice?

A. She was not sick from it. They were not bothering her, only they were just there.

Q. You decided to await developments, and see whether it would get worse?

A. Yes, sure. [128—82]

Q. It did get worse, didn't it?

A. Yes, it did, when we moved out to the creeks.

Q. And the glands in the throat became very much swollen and inflamed and there was a large swelling here (indicating), was there not?     A. Yes.

Q. And at one time when Dr. Hall was out on Fairbanks Creek, being called out there to attend some person who was injured, Mr. Lappi called him in?

A. Yes, sir.

Q. Were you there at that time?     A. I was.

Q. And he advised that the child be immediately brought to town for an operation?

A. He did, yes.

Q. It was some time after that, however, when the child was brought in?

A. Yes. That was about, I think, two weeks afterwards, probably ten days of two weeks, I don't remember the time.

(Testimony of Mrs. John Lappi.)

Q. Then the child was taken to St. Joseph's hospital?

A. Yes. No, two days after we came into town.

Q. Dr. Hall said that an operation was necessary immediately and wanted, in order to perform the operation, to give an anesthetic, the first time, did he not?

A. Yes, although he thought it was not necessary the first time.

Q. Wasn't the fact that an anesthetic was not given except locally—(interrupted).

A. Yes.

Q. —due to your objection to it? A. Yes.

Q. And her neck was lanced and only a local anesthetic used, injected into the neck so as to deaden the pain? [129—83] A. Yes, sir.

Q. The treatment by reason of that illness didn't affect the purpose, it didn't seem to improve as rapidly as possible?

A. He thought so, but it didn't look like it was.

Q. So it became necessary in his opinion afterwards to go deeper into the throat and to remove all infection that was there? A. Yes.

Q. Were you present when the first operation was performed? A. I was.

Q. Who else was present?

A. Mr. Nordale was over there, and—(interrupted.)

Q. How long after the first operation was it, before the second operation took place, that is, at the time the chloroform was given and she was rendered un-

(Testimony of Mrs. John Lappi.)

conscious in order to perform the operation?

A. The first operation was on the 25th of July, and I think the second was two weeks afterwards, or the first part of August, I am not sure how many days, or if it was two weeks afterwards, but it was something like that.

Q. Then she remained, I understood you to say, in the hospital four or five days and then you took her home? A. Yes, I took her home, then.

Q. And she was able at that time to walk down to the office all right? A. Oh, yes.

Q. From that on, what was the purpose of her going to Dr. Hall's office?

A. To get that neck dressed every day, and he used some kind of medicine.

Q. The wound was left open for drainage in there, so that it [130—84] could drain, and it was necessary to dress it every day? A. Yes.

Q. Do you know how many visits the child made to Dr. Hall's office?

A. I can't tell. It was between the 25th of July and the 24th day of September. During that time she was under his care.

Q. Part of that time you were not in town?

A. Yes, but only a few days. After the first operation I left her with Mrs. Nordale for about six days, I think. I don't remember that, even.

Q. During that period one of the little Nordales came to the office with her? A. Yes.

Q. Or at least was supposed to accompany her?

A. Yes.

(Testimony of Mrs. John Lappi.)

Q. Up until the time that you went out to Fairbanks Creek I understood you to say this morning that you went there every day with her?

A. I did. Yes.

Q. Every time she went there?

A. Every time she went there.

Q. Did you ever see Dr. Hall in the office, while he was dressing this wound, use chloroform to remove any bandages or adhesive tape? A. No.

Q. And saw how the child acted?

A. Only he said, "I am going to use the chloroform." He just talked that way in a joshing way to her. That is the way I understood it.

Q. You didn't see him use chloroform to remove the adhesive tape while you were there? [131—85]

A. No.

Q. He never did? A. No, not in his office.

Q. Don't misunderstand me that he administered chloroform to her as it is generally understood, but didn't you see him take, on occasions when it was necessary, and remove this tape which had stuck to the skin in order to hold the cotton and dressing there; haven't you seen him take a piece of cotton and dip it in the chloroform bottle and rub it, rub this rubber stuff off her neck?

A. I seen him, but I didn't know it was chloroform.

Q. What did she do on those occasions?

A. She cried. She said it hurt. The cut was very deep.

Q. What was it that hurt her, the cut, or did she say?



(Testimony of Mrs. John Lappi.)

A. When he would take that gauze off the cut.

Q. I am not referring to the gauze which was the dressing next to the wound, but you will remember that the child when the dressing was put on, probably the gauze next to the wound—(interrupted).

A. Yes.

Q. —with an antiseptic solution on it, then, in order to hold that on, a piece of adhesive tape, that is, a piece stuck to the skin was put across so as to hold that in place—(interrupted).      A. Yes.

Q. When that tape was removed, that was the time, the removal of the tape from the skin, is the time we are talking about the use of the chloroform?

A. I didn't know it was chloroform. He dipped the gauze into some kind of liquid. [132—86]

Q. What kind of a bottle was it?

A. I don't remember. It was just something white. I didn't inquire. I thought the doctor knew what he was doing.

Q. Whether you know what it was or not—whether it was chloroform or not—tell the jury how the child acted when she saw the bottle this liquid was in.

A. Whether it was chloroform?

Q. I mean when the doctor would remove this adhesive tape, what would she do if anything?

A. She always said, "It hurts," and she cried several times.

Q. Did you ever see her hold her nose and her mouth and hold her breath, and get red in the face? Did you ever see her do that?      A. I don't think so.

Q. Did you ever see her stiffen herself out as

(Testimony of Mrs. John Lappi.)

thought she was almost going into a convulsion, and throw herself back on the operating-table?

A. No.

Q. She would sit on the edge of the operating-table? A. Yes.

Q. And the doctor would be there working around her? A. Yes, and I was there myself.

Q. You never saw her act that way?

A. Sometimes she cried, and the doctor would say, "I am going to give you the chloroform," and she would say, "No, Doctor, don't," like that, as a child naturally would.

Q. Did you ever at those particular times see her hold her nose and hold her mouth and hold her breath? A. I don't remember.

Q. You would remember that if you had seen it?

A. Perhaps so, but I don't remember that.

Q. Did Mr. Lappi ever that you know of go with the girl to [133—87] the doctor's office when you were not there?

A. Yes. That was the day he paid Dr. Hall. He went there without me.

Q. And the child went with him? A. Yes.

Q. And the dressing of the neck occurred on that occasion, too?

A. Yes. but it was healed up so there was not much to be done.

Q. Did Mr. Lappi tell you or say anything to you upon his return on that occasion about the child holding her breath and acting in the way of going into convulsions and crying or screaming so that he had to shake her in order to make her stop?

(Testimony of Mrs. John Lappi.)

A. No, that was not necessary, because the cut was almost well. That was only a few days before I stopped her going there.

Q. Whether it was necessary or not I ask you if he ever said anything like that?

A. No, he never did. He told me he paid Dr. Hall sixty dollars, and he brought me the receipt.

Q. I understood you to say that the contract with Dr. Hall for performing this operation was one hundred dollars. A. Yes.

Q. Aren't you mistaken about that?

A. No, he said he would see the girl well for one hundred dollars. And when my husband paid him he said he expected a hundred and twenty-five dollars.

Q. Wasn't that the agreement in the first place?

A. Not with me.

Q. Did you make that contract with Dr. Hall yourself? [134—88]

A. Yes, I did. I asked him several times how much the charges were, and he said he would see the child well for that hundred dollars.

Q. Did you pretend to make the contract yourself or did Mr. Lappi?

A. I did, because Mr. Lappi went on Fairbanks Creek. That was made in the winter time first, and then when I came in the second time to have the child's neck operated on.

Q. That was made when you first went to Dr. Hall, the first time you saw him?

A. Yes, we were talking about it, but I don't re-



(Testimony of Mrs. John Lappi.)

member whether we made the contract then, the agreement, but the second time anyhow I asked him how much that operation would be.

Q. When was that second time?

A. That was last winter you know when we—(interrupted).

Q. Before you went to Fairbanks Creek?

A. Before I went to Fairbanks Creek. And when I came back and wanted to make the agreement then before the operation was done.

Q. Isn't this true: That when Dr. Hall was called to look at the child on Fairbanks Creek, that he criticised, you that is, told you that you should not have let it go that long; that it was in a very serious condition on account of the pus that had gathered in there and the infection? A. Yes, he told me that.

Q. Wasn't there an agreement just before the operation over there at St. Joseph's Hospital, that the price of the operation was to be one hundred and twenty-five dollars? [135—89]

A. No, sir. When I came from Fairbanks Creek I went to his office and wanted to know how much that would be and he said one hundred dollars.

Q. That was after he had seen the child on Fairbanks Creek?

A. There was no agreement on Fairbanks Creek.

Q. Wasn't the trouble with the doctor there that he said the child had been allowed to go so long that the glands were all festered and sore?

A. He said that, and he said, "The idea of your treating the child with Christian Science," and he



(Testimony of Mrs. John Lappi.)

didn't know whether I had ever treated her with Christian Science or not.

Q. Weren't you?      A. No, I wasn't.

Q. Had you ever told him you had?

A. No. I don't know where he got it.

Q. Were you present when the wound was first lanced?      A. I was.

Q. There was a large amount of pus came out, wasn't there?      A. Not such an awful lot.

Q. Wasn't there almost half a cupful?

A. No, sir, I don't think so. It was almost all blood that came out of it.

Q. A large amount?      A. Not very much.

Q. How much?

A. Just a little bit on the cotton there.

Q. Do you remember on how many occasions when you were at Dr. Hall's office with the little girl, it was necessary to remove these bandages by the use of chloroform?

A. Oh, not many times. Of course he had to use that kind of a sticky stuff over there first, but it was not many [136—90] times I should think, not many any way.

Q. Then after you came back from Fairbanks Creek were you present every time that the child was there with the exception of this last time that you speak of?

A. I was there until—it was a few days before that that I stepped on a nail and I couldn't go out of the house and I sent my little boy down with her.

Q. She was going to the office every day, was she?

(Testimony of Mrs. John Lappi.)

A. Not at that time. Every other day she was going towards the last.

Q. How many times altogether would you say that the child was at Dr. Hall's office when you were not present?

A. I don't think it was many times, because it was about a week that Arthur went down with her, then, if I can remember, it was about two times that she went there by herself when I couldn't get the little boy to go with her.

Q. During the time, as I understand you, that you were in town you went with her every day, except when the little boy went? A. Yes.

Q. And except this last time?

A. Yes. And the time my husband went with her once, which was the time he paid Dr. Hall.

Q. Outside of that you were there every day?

A. I was, except when she was stopping at Nordales, and then the little Nordale girl went with her.

Q. That was when you were on the creek?

A. Yes.

Q. Every time you were not on the creek, when you were in town, you went there every day, with the exception of [137—91] when Mr. Lappi went there and paid the bill, and with the exception of the time the little boy went?

A. Yes, sir. Every other time, with the exception of perhaps three times that she went there without either one of us.

Q. When were those three times, well toward the end?

(Testimony of Mrs. John Lappi.)

A. Yes, that was toward the last that she went there by herself. It was only necessary for her to stay a few minutes. She didn't even have the bandage around her neck, it was just the silk handkerchief.

Q. How was that silk handkerchief fastened on?

A. It was just tied on from the back like. She had it on the stand here.

Q. She had it on yesterday?

A. She had it on yesterday and she has it on this morning.

Q. Naturally, you being the mother of the child, think everything in the world of the child, and worship her almost, and have been very careful to watch over the child?

A. I have; all my time is for my children.

Q. And I understood you to say that, I think it was the time you related about the boy going down, or he was going down but he wanted to play and he didn't go down? A. He didn't go down.

Q. At the same time you were suspicious on account of rumors, that is, your mind was in that state that you were suspicious about something.

A. My mind was in a state of suspicion all summer, but being that Mrs. Hall was doing the office work herself, and that she was there every day, I thought that between the man and the wife, the child ought to be safe.

The COURT.—Regarding the matter of suspicions that she testified to on direct examination, the Court excluded [138—92] that.

(Testimony of Mrs. John Lappi.)

Mr. STEVENS.—I made no objection to that. That is in the record.

The COURT.—She was answering something that had not been asked her, and the Court stopped her from answering.

Mr. MARQUAM.—I see.

Q. At any rate, your mind was in that condition, but—

A. My mind was in that condition, and—

Q. Never mind, you have answered.

A. I overheard some gossip—

Q. Never mind what it was over. You were nervous and uneasy, I suppose?

A. Not then, no, because— (interrupted).

Q. When did you commence to get nervous?

A. After he done the dirty trick, but not before. I thought Dr. Hall was a gentleman, being that he was a father, having children, and having a young, little wife of his own.

Q. Didn't I understand you to say a moment ago that you were in that frame of mind all summer by reason of gossip?

A. I had reason to believe it, yes. I had reason to have that in my mind.

Q. That is what I am getting at? A. Yes.

Q. Now, along about the last of September, your mind was in this condition? A. No.

Q. And you were looking—you were suspicious and you were looking for something?

A. I wasn't looking for something, no.

Q. Now, listen a moment. Whether you were



(Testimony of Mrs. John Lappi.)

actually looking for it, the way you understand my question, you were in a [139—93] condition of mind to believe a thing much quicker than you would ordinarily have believed it; isn't that true?

A. No, I wasn't believing it, I told you. I told Dr. Hall in his office that I thought he was a gentleman. I didn't believe it, and being that she was there, I thought between man and wife the child ought to be safe. I heard this gossip, but I don't believe that always.

Q. Then you didn't pay any attention to that gossip?

A. I didn't pay any attention to that.

Q. And you never did pay any attention to that gossip until afterwards?

A. Until afterwards. I believe all the gossip now.

Q. Never mind about what you believe now or don't believe. Undoubtedly that is what you are trying to tell this jury.

A. No, I am telling my own experience.

Q. If you are, just do that? A. Yes.

Q. Then we will get along very nicely?

A. Just my own experience. Every mother can find for their own selves and can fight their own battles, and I will fight my own, and it is only the truth with me, and you are a man of honor, are you not—

The COURT.—Mrs. Lappi, just answer the questions which Mr. Marquam asks you and keep composed when answering the questions.

(Testimony of Mrs. John Lappi.)

The WITNESS.—Your Honor, I will try to.

(Mr. MARQUAM.)

Q. I understood you to say, this morning, Mrs. Lappi, in answer to Mr. Roth's questions, that at the time the little child went down on the 24th day of September that you didn't want her to go because of the suspicions and [140—94] the fear that you had?

A. I didn't want her to go alone? I wanted my boy to go.

Q. You so testified. A. I did, yes.

Q. Didn't you mean when you said that, that at this particular time, on this particular day, which you say was on the 24th day of September, that you were suspicious apparently of Dr. Hall, and you didn't want the child to go down there by reason of that suspicion?

A. Not that day, I didn't think about that, but I didn't like the idea of her going alone any way.

Q. Didn't you say this morning in your testimony that you didn't want her to go there without somebody being with her, but that you couldn't go on account of your foot? A. Yes, sir.

Q. And you didn't want her to go alone there on account of the suspicion you already had by reason of reports and rumors. Didn't you say that?

A. Yes. But I didn't say that particular day that I was suspicious, being that Mrs. Hall was there.

Q. Now, you say that as soon as this little child got into the house, or opened the door and came running to you, and said "Oh, mamma, dear, I don't

(Testimony of Mrs. John Lappi.)

want to go down there any more”?

A. No, I opened the door, and she said, “My darling mamma, I am not going down again.”

Q. She first spoke to you.

A. She spoke first to me.

Q. You are sure of that?

A. I said, “You have been running.” She said, “Yes.” She said [141—95] like that (indicating heavy breathing) as she came in. I said, “You have been running.” She said, “My darling mamma, I am not going down again.”

Q. That is just what occurred when she got into the house? A. That is the words.

Q. What else did she say, and what did she do?

A. I said, “Why, love, how is that?” She said, “He was feeling me, how fat I was getting.” I said, “Where?” and she told me, which she has told all you gentlemen here.

Q. That was said immediately after she came into the house? A. The very words.

Q. Without any questioning upon your part?

A. No. Her little rain cape wasn’t off, and the door was hardly shut, Mr. Marquam.

Q. And this was—I p̄esume three or four minutes after she got into the house you knew all about it?

A. I didn’t have the heart to question everything. She didn’t tell me everything that same day.

Q. You didn’t question her then at all?

A. Not a bit.

Q. When did you question her?

A. I didn’t question her at all, not that time, be-

(Testimony of Mrs. John Lappi.)

cause I was—you know how a mother feels when she hears anything like that.

The COURT.—Just a moment. He asked you the question: When did you question her?

A. I didn't question her until Mr. Roth questioned her next.

Q. You never questioned her at all?

A. Not at all.

Q. When was that? [142—96]

A. This was after Christmas some time when Mr. Roth came to my house with Mr. Clark, the Chief Deputy Marshal and they—(interrupted).

Q. Up to that time you had never questioned her?

A. I never had mentioned one word to her, because a mother can't do that.

Q. And everything that she told you, was told voluntarily by her? A. It was.

Q. You know Mrs. Hall, don't you? A. I do.

Q. Did you ever write Mrs. Hall a note about this matter? A. I did.

Q. When?

A. The very day I went to Dr. Hall's office, but I didn't get to send that until the next day, when I sent Mr. Howie with the message—Mr. Howie the messenger.

Q. What was contained in that letter?

A. It was: "Mrs. Hall: Please keep your husband at home or stay in the office with him, so he will leave these poor innocent children alone. You know what this means. Most respectfully. Mrs. Lappi."



(Testimony of Mrs. John Lappi.)

Q. You didn't keep a copy of it?

A. I didn't, but these are the very exact words.

Q. You have repeated it, word for word?

A. Every word.

Q. What did Mrs. Hall do in response to that letter?

A. She came up to my house about five minutes after I got there. I waited at the messenger office until Mr. Howie got back.

Q. How long was it between the time that you gave the letter [143—97] to the messenger until Mrs. Hall came to your place?

A. I stayed at the messenger office until Mr. Howie came back and then I came up home, and about five minutes afterwards Mrs. Hall came up crying, and she asked me, "Mrs. Lappi, did you write this?" I said, "Mrs. Hall, I did." "I didn't mean to hurt your feelings. You have done me no harm, and nobody else has but your husband, but I have got to tell you what kind of a beast you are living with." And she said, "Mrs. Lappi, you have done a mother's duty."

Q. What else was said there?

A. And she wanted to know what he had done.

Q. And what did you tell her?

A. I told her. First I said, "I don't want to tell you, but you know as much what I wrote to you, and you know what it means." And she was begging me to tell her and finally I told her.

Q. What did you tell her?

A. I told her that Dr. Hall had opened—had took

(Testimony of Mrs. John Lappi.)

my girl on his lap and kissed her little bottom. I didn't know. The child tells now that it was above her knee that he kissed her. She said, "Oh, my God, and the man that I loved!" I said, "Girl, how could you love a beast?" Isn't that so, Mr. Marquam?

Q. You are answering the questions, Mrs. Lappi.

A. Excuse me.

Mr. MARQUAM.—Just try and answer the questions. I appreciate your feelings.

The COURT.—Yes, just answer the questions that Mr. Marquam asks you. [144—98]

The WITNESS.—I will try to. (Weeps.)

(Mr. MARQUAM.)

Q. Is that all the conversation that occurred between you and Mrs. Hall.

A. She stood there quite awhile and cried and cried and cried.

Q. Just about the conversation, what words were used?

A. We were talking on the same thing, over and over, the same thing all the time.

Q. What you have told is just what was said and nothing more? A. Yes.

Q. I will ask you if it is not a fact that when Mrs. Hall came there and saw you that you wouldn't tell her anything about it until she insisted upon knowing A. Yes.

Q. And then that you said to her—(interrupted).

A. Yes, she insisted.

Q. Listen. Then you said to Mrs. Hall that the

(Testimony of Mrs. John Lappi.)

child came home and her face was very red—(interrupted).     A. Very red and very excited.

Q. Just a minute. That you asked the child what was the matter and the child told you that nothing was the matter. Didn't you tell Mrs. Hall that?

A. I never did.

Q. Didn't you further tell Mrs. Hall at that time that you never found out, and she hadn't told you, that there was anything the matter, but that afterwards you found out. Isn't that true?

A. No, sir, that is not true. Mrs. Hall don't say that.

Q. That is all. You say it is not true? [145—99]

A. No, it is not.

Q. Did you ever see or talk with Mrs. Hall again?

A. I spoke to her at the St. Matthews fair and I saw her on the streets, but I turned my head away. I thought she is no woman, no woman with honor. (Mr. MARQUAM.)

Q. And because you thought she was no woman of honor you would not speak to her?     A. No.

Q. That was the reason?

A. That was the reason.

Q. And you deny, now that I have called your attention to it, deny unequivocally, that that is what you told Mrs. Hall at the time she came to you?

A. I deny that, yes.

Q. If you found out later about this matter from this child why didn't you go down to Dr. Hall's office the same day?

A. How could I? I was almost in hysterics, and



(Testimony of Mrs. John Lappi.)

I was alone, my husband had gone down to Ruby.

Q. Your husband hadn't got back by Monday or Tuesday?

A. No, but I got my mind back, and I thought, now this is the time for me to go, and when I went down and came back Mrs. Hall came there and She begged me to save her name.

Q. What did Mrs. Hall tell you in that respect?

A. She said, "Mrs. Lappi, please save my name." She said she believed the child was telling the truth, but she said, "Please save my name." She said that about a dozen times.

Q. Mrs. Dr. Hall told you that?

A. Mrs. Dr. Hall, yes.

Q. Was there anybody else that heard this talk?

A. Only my children in the cabin. They were there waiting [146—100] for their lunch. It was at noon.

Q. Since the child was on the stand this morning, and after a recess was taken for five minutes at counsel's suggestion, and you went into the district attorney's office, did you talk with the child in there?

A. No.

Q. Was she in the same room with you?

A. Yes, sir, and lots of others, and we never mentioned a word about it.

Q. Was Mr. Roth in there with you?      A. No.

Q. Were any of the assistant district attorneys in there with you?

A. No. Only just when I was leaving, I talked



(Testimony of Mrs. John Lappi.)

with Mr. Roth a few moments.

Q. Did you know what the child had said on the stand here?     A. I did not.

Q. Did she tell you when you went out to your house?     A. No, sir; not one word.

Q. Did you talk with the child during the noon hour about what she testified on the stand, or did you not?     A. I did not.

Q. How did you happen to mention here in your testimony about the girl, after having said to you that Doctor Hall had opened her panties and kissed her little bottom—how did you happen to tell that?

A. I don't understand the question.

Q. You testified here in answer to a direct question by Mr. Roth that the child did tell you at one time, that Dr. Hall had opened her little panties and kissed her little bottom?     [147—101]

A. She told me that first, and then when Mr. Roth came out to my house, he told me to bring the child down to his office, and I did, and he questioned her, and there was never a word mentioned at all *that had been down* to the Grand Jury. Then I asked her about this. That was the only second time that I asked any questions and never since.

Q. That is the time that she told a different story about it?

A. Not a different, but she told me more about it.

Q. She didn't tell you anything different?

A. Nothing different, only more and more.

Q. She did keep telling you that Dr. Hall had opened her little panties and kissed her on her little

(Testimony of Mrs. John Lappi.)

bottom? A. No, she said he kissed her knee.

Q. Then she told a different story?

A. No, she didn't tell me that story at the house. It was my mistake.

Q. How could it be your mistake? If she told you you understood what she said.

A. She said he kissed her, and I didn't ask her where he kissed her.

Q. Then she never told you that?

A. No. She said he kissed her above her knee.

Q. She never told you then that Dr. Hall had opened her pants and kissed her little bottom?

A. No, she never told me that. She said he kissed her "down there." She didn't say where and I didn't have the heart to question her.

Q. She never as a matter of fact, at any time, ever told you that Dr. Hall had opened her pants and kissed her little bottom? [148—102]

A. No, she never has.

Q. So if the child says that she told you that, she is mistaken about that?

A. Yes, she didn't tell me that, no.

Q. Was that the only reason that you didn't go immediately to Dr. Hall's office that Thursday?

A. Isn't that enough?

Q. (Continuing.) On account of your mental condition?

The COURT.—Is that the only reason is the question.

A. That was the only reason, Mr. Marquam.

(Mr. MARQUAM.)

Q. It was not by reason of the fact that you had

(Testimony of Mrs. John Lappi.)

run a nail in your foot and you were lame?

A. I wasn't lame at that time.

Q. You had recovered from that?

A. I had recovered. I could wear a shoe then at that time.

Q. You said a moment ago that by Monday, I think it was, you had regained your mind. What do you mean by that? Were you in the meantime, in such a hysterical, unsettled condition mentally that you didn't know what you were doing?

A. Yes. If I went then, I would have taken a gun with me and killed him, as other mothers should have done away before that.

Q. Just tell what you know. You are going too far.

A. Excuse me, I may be. But I am a mother, and you have got to excuse me.

Q. I understand the condition and situation thoroughly. Well, there was no danger to you in writing to Mrs. Hall as you did, there was no danger of you putting a gun on her. Why didn't you write to her before Tuesday? [149—103] A. No.

Q. (Continuing.) If you knew all about this by Monday. A. Monday?

Q. I mean by Tuesday?

A. Well, because I wasn't talking to no one about it. And after I had told him, and when I saw him shiver there, and feel how guilty he was, I thought, now is the time for that little woman to know what kind of a beast she is living with.

Q. That is the reason?



(Testimony of Mrs. John Lappi.)

A. That is the reason. And I wrote the letter Monday afternoon, but the messenger couldn't find Mrs. Hall, so I took the letter with me and I went down Tuesday noon about eleven o'clock.

Q. Who had you talked with in the meantime? From the time that the child came home and told you until you went down to Dr. Hall's office?

A. No one. Not a soul, until after I went to Dr. Hall's office, and I talked to Mr. and Mrs. Nordale both the very Monday that I went down to Dr. Hall's.

Q. You never talked to a soul in the meantime?

A. Not a soul.

Q. No one?

A. No one. I thought it was a disgrace to talk to any one about such a thing.

Q. You never talked to the child, never asked her any questions?

A. Never asked until Mr. Roth come to my office—excuse me—to my house, with Mr. Clark.

Q. Did he talk with the child at that time?

A. No, she was in school, but I took her down to Roth's [150—104] office the next day.

Q. So then Mr. Roth never talked to the child at your house? A. No.

Q. He didn't?

A. He did just this last winter and the child told him the very words she has told here in this office.

Q. That was at your house?

A. Yes, that was at my house.

Q. What time was it, as a matter of fact, that Mr.



(Testimony of Mrs. John Lappi.)

Roth was first at your house?

A. Well, it was this winter some time. That must have been over two months ago, more than that, more than two months ago.

Q. Didn't he come there voluntarily, or had you ever talked to him before?

A. I never saw the man. Well, I knew who he was, but I had never spoken to him in my life.

Q. When you went down to Dr. Hall's office, you described to the jury how white and shaken he was?

A. Yes.

Q. And you said this morning that when you were talking with the Doctor, you were talking very loud?

A. Very loud.

Q. And you told him you didn't care who heard about it?

A. No, I didn't, because—(interrupted).

Q. Didn't he say at that time, "Now here, if you are going to talk this way, I want somebody here to to hear your testimony or hear you talk?"

A. Yes.

Q. And didn't he then say to go over and send for Mr. Crossley? A. Yes. [151—105]

Q. You knew who Mr. Crossley was, that he was the District Attorney? A. Yes.

Q. And you knew who he was at that time?

A. Yes.

Q. Or if you didn't want to do that, that he would go over to Mr. Crossley's office with you?

A. No, he didn't say that.

Q. What did he say about Crossley?

(Testimony of Mrs. John Lappi.)

A. He said he wanted witnesses. He opened the door but we stood in the hallway, and I kept on talking, and I said: "Old man, you would not be president of these lodges very long, if I can help it." I think I mentioned the Pioneers too. And he shivered, and didn't answer me.

Q. Show the Jury what he did when he shivered?

A. He did like that (indicating). And never an answer from him. And he went in his office, and I kept on talking, and not an answer from him.

Q. Describe what you mean by him shivering?

A. I can't tell you. You know what I mean.

Q. I don't know what you mean?

A. Yes, you do.

Q. Show the jury what you mean?

A. When I see a man white and pale and he shivers, isn't that enough explanation?

Q. Tell the jury what you mean by shivering?

A. When I pointed my finger at him and said that he would not be president of these lodges very long if I could help it, he was white, and he shivered like this (indicating).

Q. Shaky and white?

A. Shaky, yes. I could see him shake, and he went into his room. [152—106]

Q. What part of him was shaking?

A. Well, all over him. That is a funny question.

Mr. ROTH.—Just answer the questions.

(Mr. MARQUAM.)

Q. How did he shake, or how long did he shiver?

A. Just a moment, because he went in his office.

(Testimony of Mrs. John Lappi.)

Q. And were you standing up at that time?

A. I was standing up there in the hallway, and I kept on talking, and I threatened to kill him if he ever laid his hands on my child.

Q. Were you threatening then to kill him?

A. No, not then, but I said, "If you ever lay your hand on my child again or ever speak to her."

Q. Was he shivering from the fear that you would then shoot him?     A. He went in the other room.

Q. He was shivering in the other room?

A. I didn't see it. I didn't look at him then.

Q. Where was he shivering in the other room?

A. In the hallway.

Q. What did you mean by the hallway?

A. When you come up those steps, just right above those steps we were standing there.

Q. And you had almost concluded your conversation?     A. Almost, yes.

Q. He didn't shiver before that?

A. No, he came to me and said "Sh, Mrs. Lappi, not so loud."

Q. Where was this, in the hall?

A. No, in the sitting-room. I was sitting in the rocking-chair.

Q. What was the first word that you said to him or that he said when you came in. [153—107]

A. He said, "Good morning," and I didn't answer.

Q. Did he say it just that way?

A. Yes; "Good morning," he says, you know just the way he has.

(Testimony of Mrs. John Lappi.)

Q. I don't know. I'm asking you about it.

A. And I didn't answer, and he said, "It is a lovely morning," or something like that, and I didn't answer.

Q. Did he shiver at that time?

A. No but he was white.

Q. Do you mean he was pale?

A. Pale, yes. He didn't open the door as he used to do.

Q. How did he used to do it?

A. He would open it, "Why good morning," if anybody was there, he came in this morning scared.

Q. He was scared before he got in there?

A. I don't know.

Q. Did he get scared after he saw you?

A. He had reason to get scared.

The COURT.—I will ask you to conclude that kind of cross-examination as speedily as you can.

Mr. MARQUAM.—By reason of the fact that it is not proper?

The COURT.—Yes. It does not seem to me entirely proper. It is argumentative in the first place.

Mr. MARQUAM.—We except to the remarks of the Court in the presence of the jury upon the question of improper cross-examination.

The COURT.—Exception allowed.

Mr. MARQUAM.—Q. Now Mrs. Lappi, after he came in, did he remain in the room that you was seated in?

A. Yes, he did. He walked away just close to the



(Testimony of Mrs. John Lappi.)

hall. He didn't come in like he used to do. [154—108]

Q. Did he go into the other room, into the room next to the reception-room?

A. The door was open and I think he put his satchel down. He had a little satchel in his hand, and he said another word to me, but I don't remember what it was, and I didn't answer him, I just looked at him, and I said, "What do you mean?"

Q. What did he say to that?

A. He said, "What do I mean?" I said, "Yes, when you tackle an innocent child."

Q. Then what did he say?

Q. "Tackle an innocent child?" he said. I said, "Yes," and I told him then what she said.

Q. What did you tell him?

A. I told him that he took her on his lap and opened her clothes and was feeling her and kissed her little bottom, I said.

Q. And was feeling her?

A. And was feeling her. And he said, "She lies," and I said, "My child don't lie," and I was sitting in the rocking-chair there.

Q. Then what else was said?

A. He said "Mrs. Lappi, not so loud."

Q. Then what else was said?

A. I told him I wasn't afraid. He said, "She lies. I was only feeling her over here (showing.) I wasn't feeling her down there (showing)." That is what he said to me.

Q. Then what else did you say?

(Testimony of Mrs. John Lappi.)

A. I said that my child don't lie, and I said, "You know she don't lie." And he said, "I won't stand for such talk, [155—109] you get witnesses or go to Mr. Crossley." I said, "Yes, I'm not through with you now." Then he opened the door as we went into the hallway and stood there, and there was two men went up the steps and went into Dr. Trabue's office.

Q. Who were they? A. I don't know.

Q. Did you ever see them since?

A. I never saw them since, or I don't remember who they were. I didn't know who they were.

Q. Was there anybody else round there that you saw? A. No, I didn't see no one else around.

Q. What tone of voice were you using during this talk? A. The same as I am doing right now.

Q. Were not you shouting?

A. No, just the same as now. I cried more here now than I did then. My words were very exactly what they are now. And my tone is exactly the same, only I cried here, but I didn't there.

Q. You didn't cry any there?

A. Not a bit. Because I was mad enough to kill him.

Q. It was anger—(interrupted).

A. And the truth coming from a mother.

Q. It was anger was it?

A. It was anger and the truth from a mother. Every mother's duty is that.

Q. And you were talking very loud?

A. Very loud and—

(Testimony of Mrs. John Lappi.)

Q. And saying—and you told Dr. Hall that you didn't care who heard it? [156—110]

A. Who heard it.

Q. And you were trying to make everybody in the house hear what you called him?

A. They may have heard it. I don't know whether they did.

Q. Do you know whether they heard it? Do you know anybody that heard it?

A. I have no idea.

Q. At the time that you told Dr. Hall something about his not being president of the Pioneers any more, what else did you say to him?

A. I pointed my finger at him, and I said: "You tackle big people; don't tackle a child, and if you ever tackle my child again or speak to her, I'm going to shoot you dead."

Q. What else did you say? What was said about your not paying him anything?

A. Not a word. That was not the question. My husband—

Q. Never mind about that. My question was: What did you say, if anything, about not paying him any more money?

A. I never mentioned a word.

Q. Didn't you say to him at that time, either in the room or in the hall, "I am not going to pay you another cent of money."

A. There was not money mentioned, because I pay my bills that I am to pay.

Q. You never said a word about it?

(Testimony of Mrs. John Lappi.)

A. Not a word.

Q. Was any matter of that kind said or mentioned in your conversation with Mrs. Hall?

A. I said—(interrupted).

The COURT.—Take your time in answering questions and don't speak too loud. [157—111]

A. I will try to. I said: "That is what you get by being so nice. Every little money we have I sent my husband down to pay him." And I would have to pay him the rest as soon as he was through with the child. I said that to Mrs. Hall. She didn't answer. She cried.

Q. Didn't you say to Mrs. Hall at the time she and you were talking up at your house that you were never going to pay the doctor another cent, or words to that effect?

A. No, because a doctor deserves his pay.

Q. Pardon me for stopping you, but just answer the questions that are asked you. A. Yes.

Mr. MARQUAM.—You may examine her.

Redirect Examination.

(By Mr. ROTH.)

Q. Mr. Marquam asked you how many times you saw Dr. Hall use chloroform to remove any of the adhesive cloths that were fastened to the neck of the child, and you said you didn't know how many times.

A. I didn't.

Q. Do you know that he used chloroform at all for that purpose?

A. I did not. I told Mr. Marquam it was something in a bottle, but I didn't know whether it was water



(Testimony of Mrs. John Lappi.)

or not. It was white. It looked as clear as water.

Q. Do you remember what the chloroform smelled like at the operation? A. Yes.

Q. Did you ever smell anything that smelled like the chloroform when he was dressing the child over here? [158—112]

A. No, I didn't. I wasn't in the operating room when the child was operated on, because her father was there when she took the chloroform. I stayed in the other room.

Q. And you don't know whether it was chloroform that he used in moistening the adhesive plaster that held the dressings or not? A. No, I do not.

Q. You don't know what kind of a liquid it was?

A. No, it was white. As pure as water.

(The COURT.)

Q. Do you mean colorless or white?

A. Colorless.

Q. Did it look like water?

A. Just exactly like water.

Q. It looked like water rather than like milk?

A. Yes.

Mr. ROTH.—That is all.

Mr. MARQUAM.—That is all.

(The Court continues the trial until 10 A. M. Tuesday, April 20th, 1915, and the jury retire in charge of the bailiffs, after being admonished as usual by the Court.)

Tuesday, April 20th, 1915, 10 A. M.

Defendant and jury present.

(Pending an argument by the attorneys, the jury is

(Testimony of Mrs. John Lappi.)

again ordered to withdraw from the courtroom and retire in charge of the bailiffs. At 12 M. the defendant and the jury are present, and the Court takes a recess until 2 P. M., at which time, the jury are again placed in charge of the bailiffs and withdraw from the courtroom, and at 4:30 P. M., the jury return into court, and the defendant being present, the trial is resumed.) [159—113]

[**Testimony of Charlotte Geis, for Plaintiff.**]

CHARLOTTE GEIS, a witness on behalf of plaintiff, after being duly sworn, testified as follows, to wit:

Direct Examination.

(By Mr. ROTH.)

Q. What is your name?

The COURT.—I would like to have you interrogate the witness what she understands by an oath, and whether she knows what she is here for.

Mr. ROTH.—I will come to that in a moment.

Q. What is your name? A. Charlotte Geis.

Q. How old are you? A. Nine years old.

Q. When will you be ten?

A. On the 18th of June.

Q. Do you know where you were born?

A. Yes, right here.

Q. In Fairbanks? A. Yes.

Q. Do you know what it means to take an oath to tell the truth? A. Yes.

Q. What might happen if you didn't tell the truth after you took the oath? What might they do to you? A. Be punished.

(Testimony of Charlotte Geis.)

Q. Do you know in what way you might be punished? A. (Nods head in the negative.)

Q. Do you go to Sunday School? A. Yes.

Q. Do you understand that a person that would tell an [160—114] untruth after he takes an oath to tell the truth might go to jail? A. Yes.

Q. Do you realize that a person might go to jail if he swore falsely?

The COURT.—(To Witness.) Instead of shaking your head say yes or no.

A. Yes.

Mr. MARQUAM.—That is not the character of questions to put to this witness. If this child should tell an untruth we couldn't punish her for perjury.

(Mr. ROTH.)

Q. Do you go to Sunday School?

A. Yes.

Q. And do you go to school? A. Yes.

Q. Where do you go to school?

A. Up at school.

Q. What grade are you in? A. Third grade.

Q. Who is your teacher? A. Miss Karrer.

Q. What is your father's name?

A. Robert Geis.

Q. Have you any brothers? A. Yes.

Q. What are your brothers' names?

A. Charles.

Q. Have you only one brother? A. Yes.

Q. Have you any sisters? [161—115]

A. Yes.

Q. How many? A. Two.

(Testimony of Charlotte Geis.)

Q. Are they older than you or younger than you?

A. Younger.

Q. Is Charlie older or younger than you?

A. Older.

Q. How old is Charles?      A. He is eleven.

Q. Do you know Mr. Hall?      A. Yes.

Q. Did you ever go to Dr. Hall's office?

A. Yes.

Q. How many times did you ever go to Dr. Hall's office, Charlotte?      A. I don't remember.

Q. Do you remember the last time you went to Dr. Hall's office?

(Defendant objects as assuming that she went to the office more than once. Objection sustained.)

Q. Have you been to Dr. Hall's office more than once?      A. Yes.

Q. Do you remember the last time that you went to Dr. Hall's office?      A. Yes.

Q. Who went with you?

A. My brother Charles.

Q. Do you remember when it was that you went there?      A. Yes, it was in August.

Q. Now, with reference to the time that your baby sister was born, when was it that you went there the last time? [162—116]

A. It was Friday before the excursion.

Q. When was your baby sister born?

A. Sunday.

Q. The next Sunday?      A. Yes.

Q. How old is your baby sister?

A. She will be three on the 18th of August.



(Testimony of Charlotte Geis.)

Q. How did you happen to go to Dr. Hall's office that time, Charlotte?

A. I went—(cries)—I went with my brother when he had a cut.

Q. Where was your brother cut, Charlotte?

A. (No answer, witness crying.)

Mr. STEVENS.—The defendant objects to the question and the testimony of this witness, first, for the reason that the witness has not shown herself to be competent to appreciate the obligation of an oath; second, that the testimony is immaterial, irrelevant, incompetent, and impertinent for any purpose, as it does not appear that Selma Lappi was present at the time or any other person except Dr. Hall and the brother Charles; the time is not definitely fixed, and there can be no object in the testimony to be conceived by the defendant at this time, excepting an attempt on the part of the prosecution to prejudice the minds of the jury by offering some testimony that is wholly improper. I can only anticipate the object at this time. Certainly the question he asks, whether preliminary or not, is subject to the objections that I have just made.

(The objection was overruled by the Court, and the defendant reserves an exception, which exception is allowed.) [163—117]

Q. What was the matter with Charlie at that time?

A. He had a cut in the forehead.

Q. Did you leave Dr. Hall's office when Charles left? A. No.

Q. How did you come to not leave?

Mr. STEVENS.—We object for the reasons made

(Testimony of Charlotte Geis.)

to the question last objected to, and for the further reason that no testimony of the nature sought to be given by this witness is competent, for the reason that any conduct, whether proper conduct or improper conduct, upon the part of Dr. Hall towards this child, is wholly inadmissible under the laws, being a different person from that alleged in the indictment; for the further reason that the testimony is too remote, and there has been no showing upon the part of the Government that it is connected directly or indirectly with the offense charged in the indictment.

The COURT.—What is the purpose of the testimony, Mr. Roth?

Mr. ROTH.—The purpose of the testimony—(interrupted).

Mr. MARQUAM.—We object unless it appears to the Court that it is clearly admissible, we object to counsel stating the purpose of it in the presence of the jury, for the damage is done if counsel makes the statement.

The COURT.—Objection overruled. (Defendant saves an exception, which exception is allowed.)

(Mr. ROTH.)

Q. How did you come to not leave Dr. Hall's office when Charles left?

A. I was sitting in his lap, in Dr. Hall's lap—(interrupted.) [164—118]

Mr. STEVENS.—We desire to be understood that our same objections go to all this testimony.

The COURT.—For the reasons heretofore assigned?

(Testimony of Charlotte Geis.)

Mr. STEVENS.—Yes. And we desire an exception to the ruling of the Court allowing it to go in.

Mr. ROTH.—For the purpose of obviating the necessity of interrupting the witness, the prosecution is willing to stipulate that the objections heretofore made to the questions is made to all of the testimony to be given by this witness, and that an exception is taken and an exception allowed.

The COURT.—Very well.

(Mr. ROTH.)

Q. You just stated that you were sitting in Dr. Hall's lap. What did Dr. Hall say?

A. When my brother went, he said, "Sister, are you coming?"

Q. Yes, all right.

A. And the doctor said, "No, she is going to stay here a little while."

Q. All right, then, did your brother go away?

A. Yes.

Q. Was the office door open or was it shut, after your— A. I think it was shut.

Q. What kind of underclothes did you have on?

A. I didn't have any on.

Q. What kind of clothes were you wearing at that time? A. Bloomers.

Q. How were the bloomers fastened around the legs here (indicating)?

A. With elastic. [165—119]

Q. What did Dr. Hall do after your brother left?

A. Put his hand up under my bloomers.

Q. Where did he put his hand, Charlotte? Did he put it up here (indicating)? A. Yes.



(Testimony of Charlotte Geis.)

Mr. MARQUAM.—We object to that and wish the record to show that at the time counsel is asking the question he is going through motions with his hands and indicating and—(interrupted).

The COURT.—Objection sustained.

Mr. MARQUAM.—We ask that counsel be warned not to repeat a performance of that kind.

The COURT.—Of course, Mr. Roth, you will not illustrate what the child may testify to. You should be governed entirely by what the answer of the child is.

Mr. ROTH.—It is extremely difficult to require a child to mention names. That was why I put the question the way I did.

Mr. STEVENS.—And that was wholly improper.  
(Mr. ROTH.)

Q. Where did Dr. Hall put his hand when he put it up under your bloomers? A. He put it on—

Q. Tell us where he put his hand.

A. Put it right down here (indicating).

Q. Did he do anything with his finger?

A. Yes. (Cries.)

Q. Where did he put his finger?

A. Right here (indicating)—(Cries).

Q. Did he put it inside? A. Yes. [166—120]

Q. Charlotte, let me ask you this question: What did he do with his finger after he put it inside?

A. Around like this (showing).

Q. Did he say anything to you? A. No.

Q. After that what did you do, Charlotte?

A. Nothing.

Q. How long did you stay there?



(Testimony of Charlotte Geis.)

A. Not very long.

Q. Did Dr. Hall say anything to you at all?

A. I don't remember of him ever saying a thing?

Q. Was Dr. Hall treating you at that time for anything?     A. Yes, I had—no.

Q. Had he treated you before?

A. Not for any other thing, but one time I had a sty on my eye and he fixed that.

Q. How long before?

A. I don't remember.

Q. But at this time that you went there with Charles, was Dr. Hall treating you at that time?

A. No.

Mr. ROTH.—You may cross-examine.

(Counsel for defendant ask that the trial be continued until 10 o'clock to-morrow morning but the Court takes a recess for fifteen minutes, and after the recess, the jury and the defendant being present, trial is resumed, the witness Charlotte Geis being on the witness-stand).

Cross-examination.

By Mr. MARQUAM.—At this time we move that all the testimony of the witness Charlotte Geis be stricken for the reason that the same is irrelevant, incompetent and immaterial, and neither tending to prove or disprove any element of [167—121] the offense charged, and is not shown to have happened within such time as could throw any light upon any element of the offense charged, and is in no way connected with this case.

(The motion is denied. Defendant saves an exception, which exception is allowed.)

(Testimony of Charlotte Geis.)

Q. You say you are ten years old?

A. No, nine.

Q. How old were you at this time that you were at Dr. Hall's office?      A. Seven years old.

Q. How do you remember that?

A. Because it was two years ago, and it will be three years ago in August.

Q. How do you remember it was August?

A. Because my sister was born on Sunday and I went to the excursion on Saturday, and this happened on Friday.

Q. How do you know it was August?

A. Because sister was born in August.

Q. Do you remember that yourself?      A. Yes.

Q. Or did somebody tell you that?

A. I remember that she was born in August.

Q. Isn't it true that the fact that you say it was August is due to what your mother or your father or somebody said about when her birthday is, or was?

A. Well, I know it was the 18th of August.

Q. What is?      A. Sister's birthday.

Q. She was born on the 18th of August, of what year?      A. 1913. [168—122]

Q. When was this with reference to that time?

A. In August.

Q. Was it before or after your sister was born?

A. It was before.

Q. How long before?

A. My sister was born on Sunday and mother went to the hospital Saturday evening.

Q. What day was this that you went there?

A. Friday.

(Testimony of Charlotte Geis.)

Q. You say you had been up there before at Dr. Hall's office?     A. Yes.

Q. Before this time you had been up to Dr. Hall's office?     A. Yes.

Q. How often?

A. I don't remember. I think two or three times. I think two times, though, but I don't remember. It was two or three times.

Q. How long before?

A. I don't remember how long before it was.

Q. Do you mean just a short time or a long time before?     A. I can't tell.

Q. Was it a year before, or six months—what were you up there for when you were there before?

A. I had a sty taken off my eye.

Q. Do you remember how old you were then?

A. No.

Q. You don't remember when it was?

A. No.

Q. Who went up with you to Dr. Hall's office then?

A. My father. [169—123]

Q. And the sty was taken off, was it?     A. Yes.

Q. What were you doing in the office on this occasion?

A. I went up with my brother Charles.

Q. What was he going up there for?

A. He had a cut in his forehead.

Q. How did he cut it?

A. He got hit with a baseball bat.

Q. He was playing baseball, was he?     A. Yes.

Q. Were you with him when it happened?

A. No.

(Testimony of Charlotte Geis.)

Q. Did you leave your home to go up there to Dr. Hall's office?      A. Yes.

Q. Did Charlie come home with his head cut?

A. No, this was after. He had his head cut, then he went up to Dr. Hall's to have it fixed and I went with him.

Q. Did you leave home together?

A. Yes.

Q. Was it in the evening, after dinner?

A. Yes, after dinner.

Q. It was light when you went down there?

A. Yes.

Q. Just go ahead and tell me, Charlotte, just what happened when you were down there, and everything that happened. What you did, what Charlie did, and what Dr. Hall did.

A. We went down to get this cut fixed, and I was sitting on Dr. Hall's lap—(cries).

Q. Don't cry, Charlotte, just tell us what happened? [170—124]

A. Witness continues crying.

Q. Don't cry, but just tell us like you did when Mr. Roth was questioning you. All I want to know is everything that happened. Just tell us everything that happened.

A. My brother, when he was going, he asked me if I was going, and Doctor Hall said, "No, she is going to stay here a little while," and he said, "Sister, are you going?" and Doctor Hall said, "No, she is going to stay here a little while."

Q. Go ahead—what else happened?



(Testimony of Charlotte Geis.)

A. Then after he went out, Dr. Hall—(cries).

Q. Then what?

A. (Witness continues crying.)

Q. When you said that “he went out,” you meant Charlie?     A. Yes.

Q. Then what happened?

A. He put his hand under my bloomers.

Q. You were sitting on his lap?     A. Yes.

Q. Were you sitting on his lap while Charlie was there?     A. Yes.

Q. How long was Charlie there?

A. I don’t remember. I don’t think he was there very long though.

Q. But Charlie was there part of the time at least while you were sitting on the doctor’s lap?

A. Yes.

Q. What were you talking about, and what was Charlie talking about, and what was the doctor talking about? Do you remember anything that was said? [171—125]

A. I was talking—

Q. Do you remember, Charlotte?

A. Well, I forget just what it was, but it was something about poison berries.

Q. Were you talking, or Charlie?

A. I was talking.

Q. About poison berries?     A. Yes.

Q. Where was Charlie when the doctor was dressing his head?

A. He was in the room. I think he was in the room where he has his patients. Where he fixes them.

(Testimony of Charlotte Geis.)

Q. You were there in the same room with Charlie and the doctor?

A. No, I was in the room where you go in, and my brother was in the other room. I don't remember if I was in the room where he was fixing my brother's head or not.

Q. While the doctor was fixing your brother Charlie's head, do you remember what you were doing?

A. No.

Q. You were not talking to Dr. Hall, at all, I believe? I understood you to say a while ago that the doctor hadn't talked to you, or said anything to you, is that right? He never talked to you about anything particularly? A. No.

Q. And if you were talking about some poison berries—(interrupted).

A. Yes.

Q. —what were you talking with?

A. I was just saying that to Dr. Hall. [172—126]

Q. Let me ask you if you remember this. Think and see if you can remember this circumstance. You knew that Dr. Hall was dressing Charlie's head and you knew that it was cut by a baseball bat or something of that kind? A. Yes.

Q. And do you remember while he was doing that what you were doing? A. No.

Q. Do you remember taking some pencils or crayons and drawing on some paper that was there?

A. No.

Q. Do you remember anything about that?

A. No.

(Testimony of Charlotte Geis.)

Q. Do you remember that while you were there and while Charlie was there, when you were sitting on the doctor's lap that you said to the doctor in talking—you had been talking about this cut on Charlie's head—you said to the doctor "You never saw where I was cut." Do you remember that?

A. I just told him about that cut. I was cut right here (showing).

Q. Show the jury right where.

A. Right here (showing).

Q. Right on the leg? A. Yes.

Q. Do you remember showing the doctor where you were cut?

A. I didn't show him. I never pulled up my dress or anything. I just showed him through my dress.

Q. Are you sure of that? A. Yes.

Q. Now think back and think just exactly what happened at [173—127] at that time. When you were talking about this cut on Charlie's head, you said to the doctor, "You never saw where I was cut, did you?" A. No.

Q. What did you say about that? Did you show it to him through your dress?

A. I told him I had a cut, but I don't remember saying that that you said.

Q. You did say that you had a cut? A. Yes.

Q. Did you tell him where it was or did he ask you where it was?

A. I don't remember, but I showed it was right there (indicating).

Q. Do you remember how you got hurt or cut?

(Testimony of Charlotte Geis.)

A. Yes.

Q. How?

A. I was playing on some barrels and I was jumping from them, and I cut myself on a box. I jumped and I cut myself on the tin on a box.

Q. How long before you went up to Dr. Hall's office did that happen?

A. I don't think it was a week before.

Q. Who attended to that and who dressed that? Dr. Hall didn't have anything to do with that?

A. No. Mrs. Hanson and father.

Q. Mrs. Bert Hanson? A. Yes.

Q. She was staying at your house at that time?  
[174—128]

A. No, she was not staying there.

Q. But she used to be there a good deal?

A. Yes.

Q. And they dressed it? A. Yes.

Q. How much of a cut was it? I mean was it a large cut? A. Quite large.

Q. This happened about a week before?

A. Yes.

Q. Don't you remember when you were sitting there upon Dr. Hall's lap, Charlie being there, I think, I don't know whether he was or wasn't, that you said to Dr. Hall, "You never saw where I was cut," and the doctor said, "No."

A. I don't remember saying that at all.

Q. How did you happen to mention to him the fact that you had been cut? A. I don't know.

Q. And don't you remember while you were sitting



(Testimony of Charlotte Geis.)

there that you pulled up your little dress?

A. No.

Q. And showed the doctor, and the doctor looked at it and said, "My, that was a cut"?

A. No.

Q. And the cut was right on your leg, don't you remember that circumstance?      A. No.

Q. But you do remember you say of telling Doctor Hall about it on that occasion?      A. Yes.

Q. At that time you told him about it?

A. Yes. [175—129]

Q. And just showed him through, pointed to the place?      A. Yes.

Q. That's the way you remember it?      A. Yes.

Q. What did the doctor say? Did he ask you how it happened?

A. I don't remember of him asking me how it happened, or about that.

Q. And you don't remember why you happened to speak to him about it?      A. No.

Q. Did Dr. Hall ever see that cut?      A. No.

Q. He never did see it at any time?

A. Shakes head in the negative.

Q. You are sure Dr. Hall never saw that?

A. Yes.

Q. You don't remember the circumstance, while Charlie was there, of your making drawings with some pencils or crayons that were there?

A. No.

Q. You don't remember whether you were in the same room with Charlie when his head was being

(Testimony of Charlotte Geis.)

dressed or not?      A. No.

Q. You are sure that Charlie went out of the room before you did?      A. Yes.

Q. Where did he go?

A. He went home. He went out of the door and went downstairs and I don't know where he went after that. [176—130]

Q. How long did you stay there after Charlie left?

A. Not very long.

Q. Had you taken any flowers up to Dr. Hall that day?      A. No.

Q. Had you before?

A. I don't know, I guess I had taken them up before.

Q. Do you remember of having done so?

A. Yes, I have taken flowers up to him, and when this happened I told mother about it. She wanted me to take some flowers up to him—(interrupted).

Q. Do you know Mr. Roth?      A. Yes.

Q. How long have you known him?

A. I don't remember.

Q. When did you first see him?

A. I don't know when it was that I first seen him.

Q. When did you first talk to him about this matter that you have told us about?

A. Oh, it was not long before I went to the show.

Q. To what show?

A. "What Happened to Jones."

Q. How long before that?

A. It was that same night.

Q. Where did you see Mr. Roth?

(Testimony of Charlotte Geis.)

A. Mr. Roth came to our house.

Q. How long was he there?

A. He wasn't there very long.

Q. About how long?

A. About fifteen minutes.

Q. Who else was present?

A. Mother. [177—178—131]

Q. Anybody else?      A. No, not in the room.

Q. That is what I mean, in the room. When did you see him the next time?      A. Mr. Roth?

Q. Yes.

A. I seen him when I came up here Saturday.

Q. Did Mr. Roth at that time talk about this matter up at your house?      A. Yes.

Q. What did you say at that time, Charlotte, to him?      A. I told him.

Q. Did Mr. Roth ask you to tell what you knew about this matter?      A. Yes.

Q. What did you tell him at that time?

A. I told him what I told you just now.

Q. The same?      A. Yes.

Q. Everything just the same?

A. Yes, but he asked me questions.

Q. Questions. Did he ask you anything about this scar?      A. No.

Q. This wound, this cut, that you had?

A. No.

Q. Did Mr. Roth know that that cut is there?

A. I don't know.

Q. Did you ever tell him about it?      A. No.

Q. Did Mr. Roth ask all the questions or did your

(Testimony of Charlotte Geis.)

mother ask some? [179—132]

A. Mother didn't ask any.

Q. Did she say anything when he was there?

A. She told me just to remember what happened there.

Q. Well, isn't it true that part of the things that you have told here upon the stand that you didn't remember and didn't tell Mr. Roth at that time?

A. I told him the things that I told just now.

Q. Just the same way?

A. I don't know what you mean.

Q. You know what you have just told upon the stand? A. Yes.

Q. Did you tell everything to Mr. Roth at that time that you have told on the stand?

A. He didn't ask me every question that he asked me at the time he was there.

Q. What ones didn't he ask you at that time, do you remembr? A. No, I can't think.

Q. Do you remember what Mr. Roth asked you first on that occasion?

A. Yes. He asked me how old I was when he first came.

Q. What else?

A. Then he asked me when my birthday was?

Q. Then what else did he ask you?

A. Then he asked me how old Josephine was.

Q. And you told him? A. Yes.

Q. Then what?

A. He asked me if I was ever at Dr. Hall's office. I don't know just what he said.



(Testimony of Charlotte Geis.)

Q. And you told him?

A. Yes.

Q. What did he ask you next? [180—133]

A. He asked me if Dr. Hall had ever done anything?

Q. What did you say? A. I said he had.

Q. What did he ask you then?

A. Then he asked me what he did.

Q. What did you say then?

A. (Witness begins to cry.)

Q. Not what you have told now, but tell me what you told Mr. Roth at that time, that he was up at your house? A. I told him what Dr. Hall did.

Q. What did you tell him?

A. I told him where he put his hand.

Q. And did you tell him that the first time that he asked you?

A. I told him he put his hand up under my bloomers (cries).

Q. What else did you tell him, Charlotte, anything, do you remember? A. No.

Q. Is that all that you have said to him; that he put his hand up under your bloomers?

A. Yes. And Mr. Roth said—then he asked me if that is where he put it, and I said “yes.”

Q. What?

A. He put his hand there, and he said if that is what Dr. Hall did, and I said “Yes.”

Q. What did Mr. Roth do at that time, in asking you these questions at that time? Eh? You say that he asked you if Dr. Hall had put his hand there?

(Testimony of Charlotte Geis.)

A. Yes.

Q. What did he do when he asked you that question?

A. If he put his hand right here (indicating) he said.

Q. What did you say?

A. I said, "Yes." [181—134]

Q. Did he ask you another questions?

A. I don't remember.

Q. No more questions? A. No.

Q. On the first time that he asked you that question did you say yes?

A. The first time what?

Q. The first time that Mr. Roth asked you that question? A. Yes.

Q. You remembered it, did you? Did he ask you any further questions about that at that time?

A. Yes. He asked me how he did it.

Q. What did you say?

A. He did this (indicating) with his hand, and I said "yes."

Q. When he would show you with his hand, you would say "Yes"? A. Yes.

Q. Isn't it true that at the time Mr. Roth was talking to you and asking you about his putting his hand down where you have described that you said you didn't remember about that?

A. I don't remember saying that.

Q. Just think and see of when Mr. Roth asked you whether or not Dr. Hall had done that, that you said that you didn't remember that, or couldn't re-

(Testimony of Charlotte Geis.)

member that?      A. No.

Q. Are you sure of that? Isn't it true that when Mr. Roth asked you about that that you told him that you didn't remember, and you didn't remember it until after he had talked with you for awhile?

A. Yes. I don't understand what you mean.

[182—135]

Q. When Mr. Roth first asked you about what Dr. Hall had done and where he had put his hand, and how he had put his hand, didn't you at that time say that it was either not true or that you didn't remember of it, or couldn't think of it?      A. No.

Q. And that it was only after he had talked with you quite awhile that you said yes that it was true? Isn't that a fact, Charlotte?

A. I don't remember of saying that.

Q. Do you remember of saying anything like that?

A. No.

Q. Isn't it true that Mr. Roth had to talk to you quite awhile before you said that Dr. Hall had done what you now describe?      A. No.

Q. Isn't it?

A. I don't remember whether it is or not.

Q. About how long was Mr. Roth there, do you remember that?      A. About fifteen minutes.

Q. What makes you say about fifteen minutes?

A. Because I don't think he was there very long. It was not very long before I got ready to go to the show, and it was about time when Mr. Roth got there to go to the show.

Q. What time was it when he came there, do you

(Testimony of Charlotte Geis.)

remember?      A. No.

Q. Who else have you ever talked with about this matter besides your mother?

A. My mother is all, and Mrs. Hardin.

Q. That is Charles Hardin's wife?

A. Yes. [183—136]

Q. Did you ever talk with papa about it?

A. No.

Q. Have you ever talked with your brother, Charlie?

A. Yes, I told him the night this happened.

Q. Have you talked with him lately? And asked him if he remembered about this occasion and about being there?      A. No.

Q. Do you know and realize what you are here for?

A. Yes.

Q. You understand that?      A. Yes.

Q. You understand what it is to come into the court and testify?      A. No.

Q. What I am trying to get you to explain is: If you realize what the effect of your testimony, if true, might be, and what if you are mistaken about it, it might be. Do you understand what Dr. Hall is here for and being tried?      A. Yes.

Q. Do you understand that if he is guilty of what he is being tried for now, he would be punished?

A. Yes.

Q. Who told you that?

A. I think he would be. He ought to be anyway.

Q. Who told you that?

A. No one told me that, but I should think he would.



(Testimony of Charlotte Geis.)

Q. Do you understand what it is to take an oath?

A. Yes.

Q. Who told you about that?

A. My mother told me what it was. [184—137]

Q. What did she tell you?

A. She told me it was to swear to the truth.

Q. Have you tried to do that, Charlotte?

A. Yes.

Q. The best you know how? Who did you first talk to about this?

A. The first one I told it to?

Q. Yes. A. My brother.

Q. Who else have you talked to besides your brother, your mother, Mrs. Hardin, and Mr. Roth?

A. No one else at all.

Q. This was two years ago this August, or last August. 1913 you say it was?

A. Yes. It will be three years this August.

Q. How did you happen to sit in Dr. Hall's lap?

A. I don't remember.

Q. What was Charlie doing, when you were sitting in his lap, before he went out?

A. I think he was standing by the desk or by the door.

Q. Did he have a bandage around his head?

A. I don't remember whether he had a bandage around his head or not.

Q. While Charlie was there and before he went out, what were you doing while you were sitting on the doctor's lap? A. I don't remember.

Q. You don't remember what you were doing?

(Testimony of Charlotte Geis.)

A. No.

Q. You don't remember what he was doing?

A. No. [185—138]

Q. And you don't remember what he was saying?

A. No.

Q. Were you talking?

A. I was just talking about these berries and things.

Q. How long were you sitting on the doctor's lap?

A. I don't know.

Q. About how long?      A. I can't say.

Q. Can't you give the jury any idea?      A. No.

Q. Five minutes?      A. I don't remember at all.

Q. How long were you gone from the house. How long were you down there from the time you left your house until you got back?      A. I don't know.

Q. About how long?

A. I can't say. I don't know.

Q. What did you do the next day?

A. Went on an excursion.

Q. Where?      A. Down the river.

Q. Did Charlie go with you?      A. Yes.

Q. There was no school then?      A. No.

Q. Then do you remember what you did the next day after that?      A. No. Went to Sunday School.

Q. And the next day after that do you remember what you did?

A. No. Awhile after that we went over to see mother at the hospital. [186—139]

Q. That is, shortly after that?      A. Yes.

Q. Do you remember when your mother came

(Testimony of Charlotte Geis.)

back from the hospital?      A. No.

Q. Was she over in the hospital when you told her about this?      A. No.

Q. Was she home?

A. She had come home when I told her.

Q. How long was she in the hospital after the baby was born?      A. I think eleven days.

Q. So it would be eleven days after the time you were up to the doctor's office?

A. I don't know. She went there I think it was in September or in August. She went in August and was there till in September, but I don't know how long.

Q. What did you say at the time you were on Dr. Hall's lap after he did what you say he did. What did you say to him?      A. No.

Q. Did he say anything?      A. No.

Q. Did you have a coat on at that time, or did you wear an overcoat at that time?      A. No.

Q. Did you have a hat on?      A. I don't know.

Q. You don't know long you were sitting in his lap?      A. No.

Q. You don't know how long you were there, altogether?      A. No. [187—140]

Q. Do you know how long Charlie was there?

A. He went right after he had his cut fixed. He just stayed there a little while and then went out.

Q. And you don't remember what time that was?

A. No.

Q. And you don't remember what time it was that you got home?      A. No.

(Testimony of Charlotte Geis.)

Q. And you don't remember what time it was when you went there?

A. It was after dinner when we went there?

Q. But you don't know what time it was?

A. No.

Q. You went right home from there?      A. Yes.

Q. Who was at home when you got there?

A. Mother and Mrs. Hardin and I don't know if Mrs. Hanson or some one was just going in the door, going home.

Q. Your mother was there?

A. Yes, she was talking to them. I don't know who it was, but I think it was Mrs. Hanson though.

Q. I thought your mother was over in the hospital?

A. Not when this thing happened. She went Saturday evening and this happened Friday.

Q. How long after your mother left the hospital, Charlotte, was it that you first spoke to her and she talked to you about it?

A. I don't remember, but—(interrupted).

Q. About how long after she came back from the hospital?

A. I can't remember how long after she came from the hospital, but I don't think it was very long, though. [188—141]

Q. She was there eleven days?

A. Yes, I think it was eleven days.

Q. Give us your best remembrance as to how long it was after she got home from the hospital before anything was said?



(Testimony of Charlotte Geis.)

A. I can't say, but she was able to get up and be about.

Q. Do you think it would be a week after she came back from the hospital or three or four days?

A. No, I don't think so. I don't remember at all.

Q. But it was after she came back from the hospital? A. Yes.

Q. But you don't remember how long it was after she came home? A. No.

Mr. MARQUAM.—That is as far on the cross-examination as I can go now, on the present information I have, on the case. I may have completed it and I may have not.

The COURT.—Is there any further redirect examination.

Mr. ROTH.—I want to ask one question.

Q. What was it Charlotte, that caused you tell your mother?

A. She wanted—(interrupted).

Mr. MARQUAM.—We object to that as irrelevant, incompetent, and immaterial.

(Objection overruled, defendant excepts, and exception allowed.)

A. She asked me to bring Dr. Hall some sweet peas and I wouldn't go.

(Mr. ROTH.)

Q. Yes? A. Then I told her. [189—142]

Mr. ROTH.—I see. That is all.

(Trial continued until 10 o'clock to-morrow morning and the jury withdrew in the custody of the

(Testimony of Charlotte Geis.)

bailiffs, after having been admonished not to talk about the case, etc.)

Wednesday, April 21st, 1915, 10 A. M.

Defendant and jury present, Trial resumed.

The COURT.—(To Mr. MARQUAM.) Do you desire the witness, Charlotte Geis recalled?

Mr. MARQUAM.—No, sir.

Mr. ROTH.—I presume it will be stipulated that the Fairbanks that has been testified to in this examination is Fairbanks, Alaska, in the Fourth Judicial Division?

Mr. MARQUAM.—We are perfectly willing to stipulate to that. I think that is a matter that the Court can take judicial knowledge of, but if there is any question about it, we will so stipulate.

Mr. ROTH.—The Government rests.

(The following proceedings were had, within view of but without the hearing of, the jury.)

Mr. STEVENS.—Plaintiff having announced that the Government rests its case, the defendant now moves the Court to strike from the record of this case all of the evidence of the witness Charlotte Geis, and to instruct the jury to wholly disregard the same, for the reason: First, that the witness has shown herself disqualified to act as a witness in this case; second, that the matters and things testified to by said witness have not been connected [190—143] with the crime charged in the indictment, and that said testimony and the whole thereof, is entirely disconnected with any issue in this case; third, that the testimony of said witness is

(Testimony of Charlotte Geis.)

wholly irrelevant, immaterial and incompetent, and does not come within any rule, or exception to any rule recognized to be the law of the case.

The COURT.—Motion denied.

(Defendant excepts and exception allowed.)

Mr. STEVENS.—The defendant now moves the Court to strike from the record herein all of the testimony of Selma Lappi, for the reason that the said witness, owing to her youth and want of understanding, does not appreciate the obligation of an oath, and is shown by her said testimony to be an incompetent witness herein, and therefore the testimony of the said witness is incompetent in this case.

The COURT.—Which motion is denied.

(Defendant excepts. Exception allowed.)

Mr. STEVENS.—The defendant herein now moves the court to instruct the jury to find the defendant not guilty for the reason that the testimony offered upon the part of the Government and received by the Court is wholly insufficient to sustain a conviction in this case, for the reasons that the testimony of the witness Selma Lappi has shown her incompetent to be a witness; and for the further reason that the witness Charlotte Geis has shown herself to be incompetent as a witness herein, and that the matters and things testified to by her are not connected with this case, that the occurrences which she related upon the stand are too remote in time, and [191—144] otherwise wholly incompetent to show any design, intent or system of action upon the part of the defendant herein as

(Testimony of Charlotte Geis.)

to the matters and things alleged in the indictment herein; and for the further reason that the Court erred in permitting the witness Mrs. John Lappi to testify in this case that the said Selma Lappi made to her a complaint of the offense charged in the indictment; and for the further reason as above stated that the testimony is sufficient to sustain a conviction.

The COURT.—Which motion is denied.

(The defendant excepts and exception is allowed.)

(The following proceedings were conducted in the hearing of the jury.)

**[Testimony of Mrs. M. F. Hall, for Defendant.]**

Mrs. M. F. HALL, a witness for defendant, after being duly sworn, testified as follows, to wit:

Direct Examination.

(By Mr. MARQUAM.)

Q. Your name is Mrs. Hall?      A. It is.

Q. You are the wife of the defendant in this case?

A. I am.

Q. How long have you resided in Fairbanks, Mrs. Hall?

A. Since 1905, with the exception of three years.

Q. With the exception of what?

A. With the exception of about three years and a half.

Q. Your name was Cecelia Stroup before you were married?      A. Cecelia Stroup. [192—145]

Q. When were you married?

A. On March 7th, 1914.

Q. How old were you when you came to Fairbanks?



(Testimony of Mrs. M. F. Hall.)

A. I was fifteen.

Q. With the exception of the three and a half years, you have resided in the town of Fairbanks?

A. I have.

Q. During that three and a half years, was that the time you were at Ruby?

A. Two years of that I was at school, one year at Ruby, and half a year outside. Those two years I was at school, I was in the State of Washington.

Q. You were teaching here, were you not, during part of your residence here?

A. I was for three years.

Q. Since your marriage, Mrs. Hall, where have you resided in Fairbanks; where has been your home in Fairbanks?

A. When we were first married, we lived in the Jesson residence on Cushman Street, and then we built our new home and we have resided there since January 9th.

Q. That is a block down Cushman Street?

A. That is between 6th and 7th.

Q. Mrs. Hall, I will ask you if sometime this last fall in the latter part of September or first part of October, you ever received a letter or a note from Mrs. Lappi?      A. I did.

Q. Do you know Mrs. Lappi?      A. I do.

Q. Did you know her prior to that time?

A. I did.

Q. How long had you known her? [193—146]

A. In the latter part of July I was introduced to her.

(Testimony of Mrs. M. F. Hall.)

Q. Of last year?

A. Yes. In the doctor's office. The doctor introduced her to me there.

Q. That was the first time that you met her?

A. That was the first time.

Q. Where were you when you received this letter or note from Mrs. Lappi?

A. I was in Dr. Hall's office.

Q. Was there anybody else there at that time?

A. Yes, there was a patient there waiting for the doctor. The doctor was at the hospital. I was talking with the patient there at the time.

Q. What time of day was that?

A. In the forenoon, I judge about half-past ten or eleven, perhaps half-past eleven. I don't know the exact time.

Q. Have you that letter?

A. I have not. I destroyed it.

Q. At that time?

A. Yes, I destroyed it at that time.

Q. Can you tell the jury the contents of the letter or note?

A. In this letter it said "Mrs. Hall. You had better stay at the office and watch your husband and see that he lets little innocent girls alone."

Q. Was it signed?

A. Yes. "Mrs. John Lappi."

Q. How was that letter delivered to you?

A. The messenger brought it to me, handed it to me.

Q. What did you do after receiving the letter?

A. I immediately put on my hat and coat and went

(Testimony of Mrs. M. F. Hall.)

right straight to Mrs. Lappi, to Mrs. Lappi's home.  
[194—147]

Q. Where was she living then?

A. She was living on Cushman Street, just beyond Eleventh. I think it was Eleventh.

Q. What occurred after you arrived at the house? Just tell the jury what was the first thing that occurred.

A. Well, I took the note, and I asked her, I said, "Mrs. Lappi, did you write this note?" She said "I did," and she commenced to cry, and she made the statement that my husband was a brute. She was very much worked up and very much frustrated. And I asked her what this note meant. At first she didn't want to tell me, and she said, "Mrs. Hall, my child came home last Thursday looking very much flushed and very red in the face. And I had been hearing stories about other little girls, rumors, and I was very much frightened and I commenced to question the child. At first the child said there was nothing the matter with her." And, she said, "I questioned her, and finally I found out what he did."

Q. Go ahead.

A. Then I insisted that she should tell me what it was and she said—(interruption).

Q. Did she decline to tell you at first?

A. She did. She did not want to tell me. She said, "I don't want to tell you. I will tell you when Dr. Hall is present," and I simply said I wanted to know what the accusation was.

Q. You say you insisted on knowing it?

A. I did.

(Testimony of Mrs. M. F. Hall.)

Q. What did she say at that time?

A. She said that the child—that Dr. Hall had put his hand on her stomach, on the little stomach, to see if she was fat and had told her that she was getting much fatter, and that [195—148] *and that* he unbuttoned her little panties and kissed her little bottom.

Q. Are those the exact words she used?

A. Those are her exact words.

Q. State what day it was that you received this note? A. This was Tuesday, September 29th.

Q. Did she tell you at that time when this was supposed to have occurred?

A. She told me it was supposed to have occurred the Thursday previous, which was the 24th of September.

Q. I wish you would state again what she said the child first said to her when she talked about it.

A. Well—(interruption).

Q. If you can use her exact words or as near as you can recall them.

A. She said that she questioned the child, and the child said there was nothing the matter with her, and she questioned her and finally found out.

Q. Did she say that she found out as the result of questions or by any other method?

A. She simply stated just as I have told you; that she questioned the child and at first the child said there was nothing the matter with her, and she said she still questioned the child and she finally told her—finally found out.

Q. Now, Mrs. Hall, you say that Mrs. Lappi did



(Testimony of Mrs. M. F. Hall.)

not want to tell you about this matter but that you insisted?     A. Yes, sir.

Q. State to the jury why you insisted upon knowing about this matter.

A. Well, because—(interruption).     [196—149]

(Objection by attorney for plaintiff, that the question is irrelevant, incompetent and immaterial.)

The COURT.—She may answer the question.

A. Because I loved my husband very dearly and we have always been very happy together, and if my husband had done anything dishonorable I wanted to know about it, and if after hearing both sides of that question I thought he was guilty of any such thing, I should hate him with all the hatred my heart would bear, and I should never want to see his face again.

Q. That was the reason of your insisting at that time?     A. Exactly so.

Q. How long were you at the house, Mrs. Hall?

A. I don't know the exact time, but I went in and did not sit down, and it was just long enough for this conversation to take place, I should judge about eight or ten minutes.

Q. I will ask you if at the time you were at the house, or at any time, you ever said to Mrs. Lappi, and begged of her to protect you and to protect your name and not to tell about this thing?

A. No, I did not. The only thing that she might have misconstrued into that meaning was that she made the statement that she was not going to keep quiet about this, that she was going to tell this to everybody she knew and everybody in town, and I simply said that she had better not do such a thing,

(Testimony of Mrs. M. F. Hall.)

until she found out exactly what did happen.

Q. Did she say anything about having talked to Dr. Hall?

A. She did. She told me that she had been to Dr. Hall the day before and had talked with him about it.

Q. Did she say anything at that time about any statement that Dr. Hall had made her, or about her listening to him, or anything of that kind [197—150]

A. She said that she wouldn't listen to him at all. She said he wanted to talk to her, and told her not to talk so loud and give him a chance to talk, and she said she wouldn't listen to him.

Q. Then you say she said she was going to tell everything she knew about it, and that you asked her not to do so until she found out what the truth was?

A. Yes, sir.

Q. Was there anything else that occurs to you that took place at that time, Mrs. Hall, with regard to any conversation or statement that she made?

A. She made several statements, and she said—(interruption).

Mr. ROTH.—We object to that—(interrupted).

A. One statement she made was that her husband had just gone perhaps a week before that and that he had paid Doctor sixty dollars and she said, "He will never get another cent."

Q. She made that statement at that time?

A. She made that statement to me.

(Mr. MARQUAM.)

Q. Is there anything else that you can think of

(Testimony of Mrs. M. F. Hall.)

that occurred or was said between either of you at that time?

A. Well, of course, when I went there, Mrs. Lappi was very much frustrated and very nervous, and she cried, and she said that she hoped that I wouldn't feel offended; that she had nothing against me, and that she was sorry for me, and that she hoped—that she didn't mean anything against me and she hoped that I wouldn't be offended. And I simply answered her that I wasn't offended at all; that I was glad that she had told me.

Q. Was there anybody else present? Was the little girl present at that time? [198—151]

A. No, the little girl was at school.

Q. I will ask you if Mrs. Lappi made this statement to you in describing what had occurred after you had insisted on knowing; that the little girl came home very much out of breath, and she illustrated to you by panting, showing that she was out of breath, and saying, in repeating the conversation that occurred between her and the child at that time, that the little child said to her immediately when she came into the door, "Oh, darling mamma," or words to that effect, "Dr. Hall unbuttoned my panties and felt me all over to see how fat I was." Did she tell you that or anything of that kind?

A. No, sir, she did not. She simply said to me that the child came home looking very much flushed and looking very red in the face, and she said, "I had heard rumors and stories about other little children, and I was very much frightened and I commenced to question the child," and she said, "At first the



(Testimony of Mrs. M. F. Hall.)

child said there was nothing the matter with her and I questioned her and finally I found out.”

Q. She didn't explain or say what she found out?

A. No, sir. Those are her exact words.

Q. Now, during the time after your marriage, and after the time that you lived in the Jesson house—I believe that was the place you first resided after your marriage? A. Yes.

Q. You were having your home fixed up, were you not, where you now reside? A. Yes.

Q. Now, during the time that the work was going on there where did you reside, Mrs. Hall?

A. At first, after we first moved out of the home, we lived in the hotel for a while, then we put up two tents on the [199—152] lower end of our lot there and we camped out there for a considerable length of time.

Q. During that time where did you spend a great deal of your time?

A. Of course at that time I had no home duties at all, and I spent all of my days in the office, the forenoons and afternoons. Just as soon as I was through with breakfast in the morning I went to the office. Previous to that I had been in the office at times, but it had been mostly afternoons, because I had my home work to do in the forenoons. But at that time we were living at the restaurants and I had no home duties, and as soon as we had our breakfast finished, Doctor and I both went to the office, and he went to the hospital and did his work and when he returned, we worked together. When he had examinations, microscopic examinations and tests to make, we



(Testimony of Mrs. M. F. Hall.)

always made them together, and studied them out together, and he dictated his correspondence to me, and I wrote it for him on the typewriter, and I helped him keep his books, and in that way we always worked together.

Q. During the times that you were at the office on account of your home being torn up and being fixed up, when did that commence?

A. That commenced about the first of August and from that on until about the 9th of January when we moved into our new home.

Q. What year was that?

A. That was the fall of 1914 and up until January 9th, 1915.

Q. You know the little girl Selma Lappi?

A. I do very well. [200—153]

Q. How many times have you seen her there at the office? About how many times have you been at the office when she was there?

A. About every time she came, since the first of August—at least thirty times.

Q. At least thirty times that you have been there?

A. Yes.

Q. Do you know how many treatments she received at the office?

A. At the office I think forty-one treatments. Four of those were in July.

Q. How do you know that?

A. Because I always helped Doctor with his books.

Q. There is a record kept?

A. There is a record kept of everything that happens, everybody that comes into the office, and every-

(Testimony of Mrs. M. F. Hall.)

thing that transpires.

Q. How many treatments were there altogether at the hospital and office?

A. I believe there are fifty-eight visits made altogether, counting the hospital.

Q. You are just testifying from memory now?

A. Yes.

Q. You think you were at the office upon probably thirty occasions when the child was there?

A. At least that many.

Q. When the child would come there to receive a treatment where would it occur ordinarily, that is, in which room? A. In the consultation room.

Q. Describe to the jury how the rooms there were fixed and how many rooms there were, and how they are situated. This is in the Red Cross Building, is it?

A. Yes. We have two rooms, one is the reception room there [201—154] where the patients wait their turn, and the other is the consultation-room where all of the Doctor's instruments—where his instrument case is, and he has two glass tables there, and all his things that are necessary for his work.

Q. His operating-table?

A. Yes, his operating-table, and his desk, and a couch.

Q. And, as I understand you, during the time that the child would be there on these occasions you would be there in this room where she was?

A. I would. Many times, many, many times, I assisted Doctor with his dressings.

Q. What was the ordinary course of treatment

(Testimony of Mrs. M. F. Hall.)

while the child was there, describe to the jury, that is, that you know of your own knowledge, that you saw.

A. The child—Doctor performed an operation on the child's neck at the hospital during the latter part of July.

Q. Were you present at that?

A. No, I was not present at his work at the hospital. After a few days, after the child was able to come to the office, she came to the office for dressings, and the Doctor placed the dressings over the wound, and placed cotton over it, and put a bandage around it.

Q. What kind of a bandage?

A. At first he used just a gauze bandage, we call it. It is cloth, wrapped it around and fastened it on there. And after while the dressing wasn't so much, the wound wasn't so large and the dressing wasn't so large, and this was removed and after the dressing was put onto the wound, he placed a piece of cotton sufficiently large to prevent anything from hitting it or disturbing it in any way, [202—155] and this was held on by a piece of rubber adhesive bandage, which was placed around the child's neck over the top of this dressing. Now, the next time that this was to be dressed, doctor took the scissors and cut that place, cut the bandage open right over the dressings where this cotton was, then he laid open that bandage, just laid it back, and didn't have to pull it off the neck at all, laid it back and took it with his hand and made his dressing. Then he folded it back and put a piece of adhesive over that in order to hold that shut. Now, perhaps, every four or five days,



(Testimony of Mrs. M. F. Hall.)

this bandage had to be entirely removed from the neck because if it was left there the pores of the skin would be sealed up and little places would be liable to fester under there, so it would be necessary to remove this. Now, in removing this, it was a little bit painful and sometimes some of the rubber, in fact, always, some of the rubber adheres to the skin. Now, to remove this rubber, the doctor takes a piece of cotton and moistens it with chloroform, and rubs off this rubber. Now, it appears that the child, of course, had taken chloroform when she had had her operation, and the smell of this chloroform just seemed to throw the child out of her head, and I have seen her when doctor would pick up the bottle—when he went to make the dressing, he would always seat the child on the edge of his operating table—and when he would pick up this little bottle of chloroform from the glass table and bring it over and open it up, with his piece of cotton, I have seen the child just intensify her muscles and throw herself backward on the table and just scream. The fumes of it seemed to frighten her. On one occasion, she threw herself backward on the table [203—156] and just screamed, “Don’t spank me any more. Don’t spank me any more. I will be good. I will be good.” And the doctor hadn’t touched her.

Q. You were there all that time?

A. Yes. I was there sitting in the doctor’s chair at that time.

Q. On how many occasions have you been present in the office when it has been necessary to use chloroform in removing these rubber bandages that you



(Testimony of Mrs. M. F. Hall.)

have been speaking about?

A. I should think about six or eight, something about there. Then at times, I have seen the child when she saw that doctor was going to use the chloroform, put one hand over her mouth, and with the other hand hold her nose, and sit there and choke and gasp and gasp. She would hold her breath and her face would be all flushed and she would work herself up into such a state of excitement that she would just simply seem to lose her head.

Q. Would that occur every time that chloroform was used about her?

A. Every time that chloroform was used about her, she was frightened and acted in that manner.

Q. Were you present and were you in the office on the Thursday in question in this case, that is on Thursday, the 24th of September?

A. No, sir, the last time I was present in the office was the time before the last time she came, which was on the 21st of September, Monday, the 21st of September, and the wound was almost healed then and he put just a small dressing on it, and put just a little piece of adhesive across the top of it, and he told her that she should come back Thursday, and very likely that would be the last time she would have to come. [204—157]

Q. The last visit before Thursday was when?

A. On Monday, the 21st of September. That was the first time I was present when the child—(interrupted).

Q. You were around the office most of the time,

(Testimony of Mrs. M. F. Hall.)

but happened to be out on this occasion?

A. I just happened to be absent. The doctor and I went to lunch together and after we were through I stopped to do something or other, and he had to hurry down to meet his appointment.

Q. What time did you usually have lunch?

A. We didn't have any special time. We have lunch when doctor is through with his work, and he is at leisure, sometimes at one, sometimes at two. At various times, I judge that it was about half an hour or three-quarters of an hour after Doctor came to the office that I came.

Q. Upon these occasions when the child was being treated and when it was necessary to use this chloroform to remove this rubber cement or rubber bandage from her neck, just state what you would do on those occasions by reason of those actions of hers, and what the doctor would do. Convey to the jury, if you can, an accurate idea of what occurred.

A. We are both very sympathetic. We both have sympathetic natures, and when it was painful to the child and when the child was frightened that way, after the dressing the doctor always—many times would pick her up from the operating-table and toss her in his arms and sit down on the edge of the couch with the child and take her on his knee and I would come over and put my arms around her and tell her that she was a good, brave, little girl and the doctor didn't like to hurt her, and the next time it would not hurt as much. And possibly I would have a piece of [205—158] candy there and I would give her

(Testimony of Mrs. M. F. Hall.)

a piece of candy, and perhaps give her a little piece of candy to take home to her brother. The same as I did when he treated my little brother when he broke his arm. He was a brave little fellow, and the doctor would take him on his knee and give him candy and tell him how brave a little boy he was.

Q. How often have you given this little girl candy yourself? A. Quite a few times.

(Mr. Roth objects to the testimony as to other children.)

Q. My question was with regard to this child, Selma Lappi. On how many occasions while she was there had you occasion to give her candy as you had to other children?

A. That is a hard question to answer. Whenever I had it there in the office, and I had candy there many times.

Q. On how many occasions while you have been present has this occurred; when the doctor would take the child after one of these spells on his lap and try to quiet her afterwards? About how many times have you seen that?

A. Every time that she acted this way when the chloroform was being used, and at times when he removed this bandage from her little neck, and of course it is painful when the rubber is torn from the neck.

Q. About how many times have you seen the doctor take the child upon his knee while you were there, of your own knowledge?

A. I wouldn't know how to state how many times



(Testimony of Mrs. M. F. Hall.)

I have seen him, but many, many times. Whenever the child cried, whenever she had been in pain.

Q. Would you please describe to the jury what the appearance of this child would be after having gone through one of those spells that you describe, by holding her nose or [206—159] mouth, or by stiffening herself, or whatever was done, What was her appearance after having gone through one of those spells?

A. She would just work herself up until she was nervous and she would shake all over, and she would gasp and gasp and wouldn't let herself breathe, and it seemed that her blood would rush right to her head, and she was always flushed and very nervous about like a child would be when she was frightened.

Q. Would anything of that kind occur on any occasion when chloroform was not used?

A. No, just when the chloroform was used.

Q. Can you tell whether it was the actual smell or fumes of the chloroform or anything else that started her on those occasions? Describe to the jury just how that arose.

A. Well, she always said she didn't like the smell of that. I supposed it was because she had taken this chloroform when she had had her operation, and it probably made her sick when she was coming out of the effect of it. And the smell of that always seemed to bring that back to her mind.

Q. How long, ordinarily, after having finished the treatment of the child would the child remain in the office while you were there?



(Testimony of Mrs. M. F. Hall.)

A. Just a few minutes. As I just told you, the doctor would take her up and put her on his knee and try to quiet her, or I would perhaps try to quiet her just a little, and would assist her in putting on her hat and coat, and she would go home. [207—160]

Q. How long would this appearance that you have described, or can you tell us—that is, the flushed appearance by reason of these things you have told us about—would that immediately disappear or continue?

A. No. Of course that would continue, because she was worked up so it would last quite a length of time.

Q. How long is the longest time that you remember of her having been in the office after she was through with her treatment?

A. Just a few minutes, probably ten or fifteen minutes. Perhaps not that long, it is hard to state that.

Q. After you had gotten through with your visit to Mrs. Lappi by reason of this note that you had received, where did you go?

A. I went right straight to doctor to find out what he had to say about it.

Q. That same day?

A. Just right straight from her house, right straight to the doctor. When I left, doctor was at the hospital and I was talking to his patient. He had a patient there waiting for him in the office, and by the time I returned from Mrs. Lappi's home, doctor had returned to the office, and immediately when

(Testimony of Mrs. M. F. Hall.)

I got the chance I immediately talked to him.

Q. You immediately took this matter up with him?

A. Yes.

Q. You spoke about one occasion about the child having said something about "Don't spank me," when was that, do you remember?

A. No, I can't remember. [208—161]

Q. Just what did she say during that time, do you remember? Just describe everything that was said, if you can.

A. Doctor set her up on the edge of the table and when he went over—before he had touched her at all—he went over to the glass table to get his chloroform and his piece of cotton—and when he went to remove the cork and dampen that piece of cotton, she just intensified her muscles and threw herself backward on the table and just screamed and she said, "Oh, Doctor, don't spank me any more. Don't spank me any more. I will be good. I will be good," and the doctor hadn't touched her before that.

Q. You don't remember on what particular occasion that was? A. No, that was just one time.

Q. Did that same thing in reference to the doctor's spanking her occur at any other time than that one?

A. No, only that once.

Q. There would be some difference in the way she would act on different occasions?

A. Yes, at times she wouldn't scream at all. She would just act as I told you. She would put one hand over her mouth and one hand over her nose and not allow herself to breathe and just sit there

(Testimony of Mrs. M. F. Hall.)

and shake and shiver and work herself up until she was simply flushed in the face and nervous.

Q. And the last time you were there, which was next to the last visit, as I understood you to say, so there will be no question about it, describe at that time what was done in the way of dressing this neck and what was put on, if anything.

A. Well, the wound was nearly healed at that time, and just a small dressing was necessary and over the top of this was put a little, small piece of adhesive plaster, [209—162] adhesive bandage, to hold this dressing in place. Then a handkerchief was placed around that, around her neck.

Mr. MARQUAM.—You may cross-examine.

Cross-examination.

(By Mr. ROTH.)

Q. How old did you say you are?

A. Twenty-five. My birthday is the 2d of October, and this year I will be twenty-six.

Q. When were you married to Doctor Hall?

A. On the 7th of March, 1914.

Q. How old is Doctor Hall?

A. Fifty years old the 29th of last November.

Q. How long have you been acquainted with Doctor Hall?

A. Since I first came to Fairbanks in 1905. I was just a child and his children were here then, and we went to school together and played together.

Q. You worked in Dr. Hall's office, didn't you?

A. My sister worked in Dr. Hall's office.

Q. Didn't you?



(Testimony of Mrs. M. F. Hall.)

A. No. Well, my sister Margaret worked in Dr. Hall's office from the 21st of June, 1910, until the 7th of August, when she left for the Outside to go to school. Now, from the 7th of August until the 2d of October I was in the office off and on at times. Of course, I was teaching, and when school began I wasn't in the office very much. But on the 2d of October my youngest sister, Josephine, began to work in the office.

Q. How old was she then?

A. Let's see. That was in 1910 and she is now 20 years old. She was fifteen.

Q. Fifteen years old then. How old was your other sister [210—163] when she worked in there.

A. She was seventeen.

Q. You never worked in Dr. Hall's office before you taught school? A. I did not.

Q. What was it that was in that letter that you received from Mrs. Lappi?

A. "Mrs. Hall, you had better stay at the office and watch your husband, and see that he lets little innocent girls alone." Signed "Mrs. John Lappi."

Q. You destroyed the letter?

A. I destroyed it. I showed it to doctor and then I destroyed it.

Q. And you immediately went to see Mrs. Lappi?

A. I put my hat and coat right on before the messenger was out of the door, and I went right straight to her.

Q. When you got to the house, Mrs. Lappi was in a very excited condition, as I understood you to say?



(Testimony of Mrs. M. F. Hall.)

A. Well, when I came to the door, Mrs. Lappi came to the door, and she opened the door, and she was just as she would be at any time at that instant. But I showed her the note and I said, "Mrs. Lappi, did you write this note?" She said she did and she commenced to cry and was very nervous and frustrated.

Q. She was perfectly calm before you showed her the letter?

A. Apparently so. She came to the door the same as anyone would when anybody came to their house, and the minute she opened the door I showed her the letter, and I said, "Mrs. Lappi, did you write this note?" And she said "I did."

Q. And she commenced to cry immediately?

A. Yes. [211—164]

Q. That note had been delivered to you by a messenger boy? A. By a messenger.

Q. So evidently it was intended that you should get the letter personally?

A. Yes, sir, I suppose so.

Q. Now, what was said right away, immediately after you showed that letter to Mrs. Lappi?

A. I said, "What does it mean?" She said, "Your husband is a brute, and I am sorry for you, little girl. You have never done anything to me." And I said, "Well, what did he do?"

Q. And what did she say?

A. She said, "Mrs. Hall, last Thursday my child came home looking very red in the face and very much nervous and I questioned the child and the child said there was nothing the matter." "I had heard

(Testimony of Mrs. M. F. Hall.)

remarks about other little children and I was very much frightened, and I questioned the child and the child said there was nothing the matter, and I still questioned the child, and I finally found out."

Q. Well, then, what did she tell you that she had found out?

A. I insisted upon knowing. She said, "I don't want to tell you until Dr. Hall is present." But I said, "I want to know." So she said, "Well, he put his hand on her little stomach to see if she was fat, and then he opened or unbuttoned her little panties and kissed her little bottom." Those are her exact words.

Q. That is all she said to you?

A. I said, "Is that all he did?" and she said, "Yes."

Q. She told you that that was all?

A. She did. [212—165]

Q. She didn't tell you that Dr. Hall had put his hand upon the private parts of her person, right down here on her person, and felt of her?

A. No.

Q. You are sure she didn't tell you that?

A. No, Mr. Roth, she did not.

Q. You are positive of that, are you?

A. I am positive of that.

Q. And you are positive that the reason why she was worked up at that time was simply because Dr. Hall had felt of her stomach to feel how fat she was?

A. I don't understand your question. Do you

(Testimony of Mrs. M. F. Hall.)

mean that the child was worked up because—(interrupted).

Q. No. That Mrs. Lappi. You say that she was all worked up and excited? A. Yes.

Q. And frustrated, as you put it? Now, you are satisfied that she was worked up and frustrated because the child, Selma, told her that Dr. Hall put his hand on her stomach to see how fat she was?

A. Well, I didn't make that statement. It would be hard for me to tell.

Q. I am asking you if that is not true?

A. I don't know. It would be hard for me to say why she was frustrated. I suppose it was because she thought some wrong had been done to her child.

Q. But she told you what it was. She told you that he simply put his hand on the child's stomach to see how fat she was, didn't she?

A. She told me exactly what I told you.

Q. That is exactly what you told me, isn't it? I want to [213—166] be perfectly fair and frank with you.

The COURT.—That is only part of what she told you, Mr. Roth.

(Mr. ROTH.)

Q. Well, then, you are satisfied that she was frustrated simply because the child told her that the doctor had opened her panties and put his hand on her stomach to see how fat she was?

A. I didn't say that.

Q. What did you say?

A. I said that she said that Dr. Hall put his hand

(Testimony of Mrs. M. F. Hall.)

on her little stomach to see if she was fat. That often occurs, because doctor has often explained to me—(interruption).

Q. I am not asking you about that. I am asking simply about what excited Mrs. Lappi down at the house there.

A. Well, I beg your pardon. Well, now, I'll tell you. She said, "Dr. Hall put his hand on her little stomach to see if she was fat, and told her she was getting much fatter since the operation—(interrupted).

Q. And kissed her little bottom?

A. Now, wait a minute. "And he opened her little drawers, unbuttoned her little panties," she said. Those are her words, "and kissed her little bottom." Those were her exact words. And it would appear to me that the whole thing was the reason she was frustrated, exactly what I have told you.

Q. When she told you that, what did you tell her? What did you say?

A. What did I say to Mrs. Lappi?

A. Yes.

A. She said, "I hope you will not be offended at me. I have nothing against you." I said, "I am not, and I am very [214—167] glad you told me, and I will go right straight to doctor and find out what he has to say about it."

Q. Did you cry?

A. Naturally. Any woman would. It was a terrible shock to any one to be even accused of such a thing.



(Testimony of Mrs. M. F. Hall.)

Q. What else was said between you and Mrs. Lappi there that you have not stated, if anything was said, during your stay there?

A. I do not remember of anything else.

Q. How long did you remain there?

A. Just long enough for that conversation to take place. It would be hard to say exactly, but I would judge probably eight or ten minutes. I didn't sit down at all. I just simply went just inside the door and of course she closed the door, and the conversation took place and that was the end of it, and I went right straight back to the office.

Q. How many times did you see chloroform used upon the neck of Selma Lappi in the treatments?

A. Perhaps six, about six or eight times.

Q. That you saw it yourself? A. Yes, sir.

Q. Were you present at every time that chloroform was used upon her neck in the dressing of that week? A. I was not present the last time.

Q. You don't know what was done the last time because you were not present?

A. Well, I will tell you. Do you want me to answer that?

Q. You were not present consequently you don't know what was done, do you?

A. I know what was to be done. The dressing before the last doctor put a small dressing on, just a small piece of [215—168] adhesive, and of course, that adhesive had to be removed with chloroform the same as other times.

Q. That adhesive could not have been removed with anything else than chloroform?

(Testimony of Mrs. M. F. Hall.)

neck? A. I was not present the last time.

A. It can be taken off, but it leaves a deposit of rubber on there that has to be removed.

Q. Isn't there anything besides chloroform that would remove adhesive?

A. Nothing that I know of that would take it off entirely. I don't know everything that a doctor knows. That is what we always used.

Q. You don't know that anything else would release the adhesiveness of that plaster, do you, anything else besides chloroform?

A. To release the adhesiveness of it?

Q. Yes.

A. The adhesive plaster is taken off. It is not to release the bandage itself, but it is to take off the rubber deposit that is left after the bandage is removed.

Q. There is not anything else besides chloroform that would take that off?

A. Not that I know of. Of course I may not know.

Q. At least Dr. Hall never used anything else on Selma Lappi's neck, to remove that that you know of, except the chloroform?

A. Yes, sir. Except the chloroform.

Q. And notwithstanding the fact that she almost went into convulsions when he used it, he kept on using it when it was necessary to take that off?

A. If it had to be used what would you do in a case like that? It had to be removed. We didn't like to see her suffer, [216—169] and we always did it as quickly as we could, and comforted her as much

(Testimony of Mrs. M. F. Hall.)

as possible, didn't hurt her any more than necessary

Q. And you say you have seen Dr. Hall take her in his arms and toss her up in his arms?

A. Yes, just the same as he treats all children that come into the office there.

Q. Do you know John Lappi, the father of Selma?

A. I was introduced to him, but I do not know whether I would remember his face or not. I was introduced to him at one time in the office by the doctor himself?

Q. He was present one time when that chloroform was used?

A. Yes, I believe he was. When Mr. Lappi was there I wasn't in the room where the child was, you understand.

Q. You were not?

A. No, that is, I wasn't out in the room when the doctor was making the dressing. You understand what I mean?

Q. Yes.

A. Because I was out in the other room when her father was there.

Q. When she screamed and yelled when Mr. Lappi was there, you didn't go into the room?

A. Certainly not. I never go into the room unless I am called.

Q. But you were always called before when she screamed?

A. When a child comes to the office I generally— if there is no one with that child I always go into the room with the doctor and always assist. When



(Testimony of Mrs. M. F. Hall.)

she was having these little dressings made, often times her little dress would be a little bit high in the neck and it had to be unfastened and thrown back so the doctor could dress her neck [217—170] properly. I always did that, and also fastened it up afterwards, and assisted him by handing him the things that were necessary for him to work with, and then I held the child's head and soothed her.

Q. Do you remember the date of this operation from the book? A. There were two operations.

Q. I mean the final operation? A. What?

Q. The operation when Selma Lappi was placed under chloroform, the real, final operation?

A. No, I do not know that date exactly, because those things transpired at the hospital, I could find out by looking at the books.

Q. You have already stated that you had examined the books and you stated about the number of times that Selma Lappi had come down there?

A. Yes, I stated about the number of times.

Q. You don't know the exact date of this operation?

A. The first operation was some time in the latter part of July, sometime about the 24th or 25th.

Q. But I mean the final operation? You don't know the date of that?

A. The final operation was in August some time. I do not know the exact date of that but I can look it up.

Q. Now, at this time that Selma begged the doctor not to spank her any more and she would be good,



(Testimony of Mrs. M. F. Hall.)

evidently she was in hysterics at that time, or was out of her head? What would you call it?

A. I don't know what you would call it. She simply was so frightened at that chloroform that she simply made that statement and as I told you, doctor hadn't put his hands [218—171] on her at all, simply lifted her and put her on the table, hadn't touched her in any way. I don't know how she could think he would spank her.

Q. She was either in hysterics or convulsions or out of her head?

A. She acted that way, I don't know what you would call it.

Q. That was not the last time you saw the doctor use chloroform? A. No, sir.

Q. Notwithstanding the fact that that chloroform acted that way upon her, the doctor kept on using the chloroform just the same way as that?

A. He had to when this bandage had to come off.

Q. Well, he did?

A. He did. He is always gentle with children. He didn't hurt her any more than necessary, and when he used that he used it very quickly so it wouldn't hurt her and so he wouldn't cause her any more trouble than necessary.

Q. Was Monday before this eventful Thursday the last time that Selma Lappi was at the office?

A. Monday, September 21st, was the last time that Selma was there when I was present, and the next time she came was this Thursday, the 24th, which was the last time she came.

(Testimony of Mrs. M. F. Hall.)

Q. Wasn't she there between Monday and Thursday?     A. She was not.

Q. How do you know?

A. Because I was there every day between that time, and it is not on our books.

Q. It is not on your books?

A. No, sir. In the evening after all business is closed, after office hours, I have a slip of paper and I write down all the names of everybody who has been in the office [219—172] and enter them on the books.

Q. Were you present in the office on Monday?

A. I was.

Q. When Selma was there?     A. Yes.

Q. And you saw the treatment she received?

A. I did.

Q. This was on Monday before the 24th of September, 1914?     A. Yes, it was on September 21st.

Q. You know just exactly the character of the treatment she received there at that time?

A. Yes. The wound was almost healed. Just a little dressing had to be put on and held on with a small piece of adhesive plaster, adhesive bandage. [220—173]

Q. A kind of adhesive bandage was this that you refer to, just the ordinary adhesive bandage that comes on a spool?

A. It comes on a spool. It has a rubber lining to it, and it adheres when it is put in direct contact with the skin or with any object, it adheres to it.

Q. It is just ordinary court-plaster that is on

(Testimony of Mrs. M. F. Hall.)

cloth, or something of that kind?

A. No. It is not court-plaster. It is a rubber preparation that is put on a cloth, I could show you a piece of it.

Q. I want the jury to understand just what it is.

A. Yes.

Q. Isn't it true that that adhesive plaster that you speak of there is very easily pulled right off of the skin?

A. Well, you can pull it off, but it hurts just a little. It smarts when it comes off. It adheres quite strongly, and it always leaves a deposit of rubber on there when it is taken off.

Q. But that is off to one side. Do you say chloroform has to be used to take that rubber off?

A. To remove that rubber that adheres to the skin.

Q. That rubber that adheres to the skin wasn't on the wound; it was off to one side on the skin.

A. It was where the bandage had been fastened around the wound.

Q. The wound was protected from this adhesive plaster.

A. The wound is protected from that adhesive plaster. An *aseptic* dressing has to be put on there to keep any poison or dirt from getting in there. The doctor wouldn't dare to put that adhesive next to it.

Q. This adhesive rubber that stuck to the skin was entirely away from the wound?

A. It was not on the wound.

Q. It was entirely away from the wound? [221—

(Testimony of Mrs. M. F. Hall.)

A. It was on the neck all around the wound, but not right straight on the wound.

Q. It was not on the wound?

A. Not directly on the wound, because that was protected by dressing.

Q. Did you say or did I understand you to say that the doctor always uses chloroform to remove that adhesive rubber that is left on the skin there?

A. After he takes this adhesive bandage off?

Q. Yes.

A. He always has every time I saw him. I never saw him use anything else.

Q. Did you ever use any of that adhesive plaster on yourself?     A. Many times.

Q. When you take it off, would you take chloroform to take it off?

A. We always do. I had a sore finger the other day, and the day I took the adhesive off I took chloroform to take it off.

Q. Did you ever use pure alcohol on that?

A. No.

Q. Do you know whether pure alcohol will take that off?

A. No, I don't. The only thing I know about it is what I have seen doctor take it off with.

Q. As a matter of fact isn't it true that the last time that that wound was treated, or this eventful Friday the 24th of September, that there was not any bandage at all put on that wound except a handkerchief around it?

A. I told you that on the 21st of September, on



(Testimony of Mrs. M. F. Hall.)

Monday, I was present when doctor made that dressing, and he put a small dressing on there and he put a small piece of adhesive over that dressing to hold it on. I told you that before. [222—175]

Q. You are sure of that?

A. I am sure of that because I was there and assisted, and then the handkerchief was placed on the outside of that.

Q. And the matter is so distinct in your mind—it was a matter that appealed to your mind in such a way that you have no doubt but what that is true; that there was adhesive plaster put on there on the 21st day of September, 1914.

A. I will tell you how I know it. Of course, this note was given to me on Tuesday, and this was just one week before, and naturally I was certainly vitally interested in all that had happened, and I certainly remembered at that time. That is why it is so clear in my memory, because I knew at that time what had happened, and after I talked to Mrs. Lappi I came home and talked to the doctor and he explained to me exactly what had happened.

Q. I didn't ask you anything about what you told the doctor or what the doctor told you.

A. I was going to—(interrupted).

Q. I am not asking you about that. You state that you know positively, and that ends that subject.

A. Yes, sir. I was just going to—(interrupted).

Q. Now, while you were out at Mrs. Lappi's house there, you stated that Mrs. Lappi told you that she had heard rumors about Doctor Hall.

(Testimony of Mrs. M. F. Hall.)

A. I did not state that. I said that Mrs. Lappi had heard rumors about other little children. She didn't tell me anything about Doctor Hall.

Q. What did she say about these rumors about other little children? A. That is all she said.

Q. She didn't connect Doctor Hall with these rumors about other little children? [223—176]

A. I will tell you. She said the child came home looking red in the face and nervous, and she said, "I had heard rumors about other little children, and I was very much frightened, so I commenced to question the child."

Q. She didn't say that these rumors, or didn't intimate to you that these rumors about other little children were in connection with Doctor Hall.

A. No, sir.

Mr. ROTH.—That is all.

Mr. MARQUAM.—That is all.

(10 minute recess; trial resumed after recess; defendant and jury present.)

**[Testimony of M. F. Hall, for Defendant.]**

M. F. HALL, defendant, a witness in his own behalf, after being first duly sworn, testified as follows:

Direct examination.

(By Mr. MARQUAM.)

Q. You are the defendant in this case.

A. I am.

Q. You are a practising physician, and have practiced in the town or Fairbanks for some time.

A. I have.

(Testimony of M. F. Hall.)

Q. How long have you been practicing medicine and surgery?

A. Since March 11, 1889, 26 years last March.

Q. Where were you born?

A. In the State of Maine.

Q. Where did you receive your medical education?

A. New York City, Bellevue Hospital Medical College.

Q. Are you a graduate from that college?

A. I am. [224—177]

Q. Where have you practiced?

A. I practiced nine years in Revere, a suburb of Boston; five or six years in Skaguay; and the balance of the time in Fairbanks since 1903.

Q. When did you first come to Fairbanks?

A. In August, 1903.

Q. And you have resided here continuously since?

A. With the exception of one winter I spent outside in New York State.

Q. Are you acquainted with Mrs. Lappi?

A. I am.

Q. And the child Selma Lappi?      A. Yes.

Q. When did you first become acquainted with Mrs. Lappi?

A. On the first visit of Mrs. Lappi to my office. That was in March, I think about the 27th of March. (Examines small book.)

Q. What was the occasion of her coming to your office?

A. She came to consult me in regard to a condi-

(Testimony of M. F. Hall.)

tion of Selma's neck.

Q. As I understand you, you had not known Mrs. Lappi before.

A. I may have seen her, but didn't know her.

Q. And you have never had occasion to see the child and know her before.      A. No.

Q. What was the condition that you found upon examination?

A. There were some enlarged glands, some four or five enlarged glands under the ear and under the jaw bone on the left hand side of the neck, the cervical glands.

Q. Were they enlarged at that time?

A. Somewhat.

Q. What did you advise at that time? [225—178]

A. I told her that one of them should be removed right away, because it would probably break down and form an abcess and affect the others. If it was removed that the others would probably disappear in a very short time.

Q. Was there any arrangement or talk about charges or fees at that time?

A. There was no arrangement, but she wanted to know what it would cost and I told her it would cost a hundred and twenty-five dollars; that it would be one hundred dollars if it could be done without an anesthetic; but if it was necessary to use anesthesia, not local anesthesia, that the bill would be one hundred and twenty-five dollars.

Q. What was done at that time, if anything?



(Testimony of M. F. Hall.)

A. She said she would come back in about a week and let me know.

Q. Did she come back?

A. She didn't come back again until the 8th or 9th of May, I think it was. (Examines book.) Yes, the 8th of May; the 27th of March, and then she came back the 8th of May.

Q. What was done at that time?

A. I examined it again and found that that particular gland which was diseased was rapidly getting very much worse and softening up and the tissues were breaking down inside and pus forming.

Q. What was done as a result of the consultation or examination at that time?

A. I recommended immediate operation then, and she said she would do it. She said she would have it done right away.

Q. Was that about the substance of the conversation at that time? A. Yes. [226—179]

Q. When did you next see Mrs. Lappi or the child?

A. That was the 8th of May, and I didn't see her again until the 2d day of July.

Q. Where? A. On Fairbanks Creek.

Q. How did you happen to see them on Fairbanks Creek?

A. I was called out there to see a man who had been injured on the lower end of Fairbanks Creek, and on my way back with the auto when somewhere 11 or 12, I was coming back in the auto, and Mr. Lappi came up to the road and stopped us and said he would like to have me come down and see the little girl.

(Testimony of M. F. Hall.)

Q. Did you go down? A. I did.

Q. What condition did you find then—(interrupted).

A. I found—(interrupted).

Q. —in comparison to the condition you had found upon your previous examination.

A. This gland at the time of the first examination was about the size I judge of a pigeon egg, and when I found it this time it was swollen, puffed away out and it was soft and showed a large quantity of pus in there at that time. It must have been nearly the size of a small orange.

Q. Was the child suffering at that time from it?

A. Yes, and she was becoming very much emaciated and very thin; her cheeks were sunken and her eyes hollow and peaked.

Q. Would that be the natural result of her condition from that condition?

A. It would be the result of the absorption of this pus, and a septic condition,—blood poison. [227—180]

Q. Was anything done at that time?

A. Nothing. I suggested at that time that they come to town as soon as they could get the child in, and they said they would be in the next day, but I didn't see them again until about the twenty—(interrupted).

Q. Have you any data to refresh your memory as to the exact date; if so, give us the exact date.

A. On the 23d or 24th of July. (Examines book.)

(Testimony of M. F. Hall.)

And on the 25th of July the girl was taken to the hospital.

Q. St. Joseph's?

A. St. Joseph's Hospital. And her neck was lanced by the use of local anesthesia.

Q. How did you come to operate in that way?

A. I wanted to open it up more thoroughly and use general anesthesia—use chloroform—but the mother objected to it; she said she didn't want her child chloroformed, or put to sleep as she expressed it, and Mr. Nordale was there and we talked it over and finally I told them I would introduce some cocaine under the skin and I would lance it and let out the pus, and that would give the child a chance to build up a little bit until we saw how the thing acted.

Q. Describe to the jury the condition that was there when you lanced this gland or the neck. If there was any pus, describe that.

A. Yes, there was quite considerable pus.

Q. About how much?

A. I should think there was altogether half a tea-cupful of pus that came up when I made this incision. The incision was a very short one, just under the skin; the *think* having bulged out and stretched out until there was not very much except the skin and the tissues close to the skin between [228—181] the pus and the outside.

Q. Was that about the extent of the operation or the treatment at that time?

A. Well, I washed it out, syringed it out and introduced some drainage so that the wound where the



(Testimony of M. F. Hall.)

incision had been made wouldn't close up until after it was drained.

Q. Then did she remain in the hospital?

A. She remained there for a few days after that. (Reads from book.) On the 26th and 27th of July dressings were made at the hospital, drainage was taken out and fresh drainage introduced. After that she came to the office on the 28th, 29th, 30th and 31st of July, and daily treatments were made; and during August, from August 1 to 12th she made daily visits to the office.

Q. From what date?

A. August 1 to 12th inclusive. August 13th she didn't appear at the office. On August 14th I learned that she was at Mrs. Nordale's and had a cold, and Mrs. Nordale asked me to go up there, and I went up there and dressed it. During this time the wound was closing up very rapidly on the outside, leaving quite a large cavity inside, so it was impossible to keep it drained, and I wanted to open it more thoroughly, and I had sent to her mother repeatedly on the creeks and to her father that they should come in and consider the matter of having it opened up and cure her instead of leaving her in this unfortunate condition, and after three days—this was in August, and on the 15th to the 18th she came to the office, after I went to Nordale's, and I don't remember the day they came in, but on the 19th it was agreed that she should go to the hospital and take [229—182] an anesthetic and have this thing opened up. The



(Testimony of M. F. Hall.)

father and the mother and the nurse at the hospital were present, and the mother had to be put out of the room so as not to interfere because she was very nervous.

Q. She was very nervous?      A. Yes.

Q. Well, that operation was performed, and the child was put under the influence of chloroform at the hospital and the operation performed, and how long did you treat the child in the hospital?

A. At that time three days. Then she went home with her mother. From the 20th to the 23d she was in the hospital. On the 24th, 25th, and 26th, she came to the office with her mother. Then her mother went out to the creeks to make arrangements to come in and stay; and from the 27th to the 31st of August she left her over at the hospital for the Sisters to look after, and I made regular visits over there. I did my dressings over there. Then from September 1st to September 15th she made daily visits to the office, sometimes with her mother, sometimes with her brother. During the time that the mother was away in the first part of August, the first seventeen or eighteen days, Anita Nordale came to the office with her every time. Then after the 15th the wound was nearly healed, nearly closed up, and she didn't come again until the 19th. The 19th was on Saturday, and I told her to come on Monday the 21st.

Q. That is of August?

A. In September. And then, on the 21st of September I told her to come again on Friday and that

(Testimony of M. F. Hall.)

would probably be the last visit that would be necessary; and she came on those dates, and there were two or three times—I couldn't be [230—183] exact about that—two or three times she came alone. On the 24th she came to the office alone.

Q. During this period you have covered from the time that the child first came to the office, state to the jury what the circumstances were with regard to Mrs. Hall being at the office generally during that period of time? A. From what time?

Q. From the time that the child—well, just state generally during what period of time, if there was any especially, that Mrs. Hall was about your office, and why that was?

A. From the time that—(interrupted).

Q. When were you married? A. March 7, 1914.

Q. Just go ahead and state what the circumstances were at any period of time during that time of Mrs. Hall being around your office more than usual.

A. Sometime in the early summer—I could refer to it very readily if it is necessary—the colored girl Geewatha Brice left and went outside. She went outside with her mother who was taken outside as an insane patient, and up to a few days before that she had been in the office for over a year—a year and a half. When she went away, Mrs. Hall came down in the afternoons, and occasionally in the forenoons, to straighten up things there a little bit, but she spent all of her afternoons there to be there to assist me and to entertain patients who were there

(Testimony of M. F. Hall.)

waiting and to tell them what time I would return in case I should be absent in the afternoon; and from that time on she was almost always there in the afternoon; and from the time we moved out of the Jesson house, between that time and the time we moved into our present residence, while we were [231—184] living in a tent and at the Nordale Hotel, she was there all day long, that is, after 8 or 9 or 10 o'clock, after she had gotten through breakfast.

Q. That was while your house was being remodeled.     A. Yes.

Q. I wish you would describe especially to the jury, after the operation had been performed and during the time that the child came to your office for the purpose of receiving treatment and dressing, just what you did and the method of doing it.

A. Well, the first process would be the removal of the gauze which had been packed inside of the wound, which was filled with gauze for drainage practically to the bottom so as to allow it to heal from the bottom out, keep the edges apart so that it would not close and shut in some of the diseased tissues. The first step was to remove this dressing.

Q. That had been placed there after the operation?

A. That had been placed there at the previous dressing. Then the wound was sponged out with some antiseptic or aseptie preparation, and re-filled with another piece of gauze for packing and drainage. Then a dressing placed over that of antiseptic gauze



(Testimony of M. F. Hall.)

again, and over that a piece of cotton; over that a piece of oilsilk, then more cotton—the oilsilk to keep it moist—a little cotton, and then bandages, the ordinary gauze bandage around the neck and over the head so as to hold this firmly in place so that it would not irritate. That was the method of dressing I used when there was any discharge.

Q. Explain why it was necessary to keep the wound open and use this gauze for the purpose so as not to allow it to heal up. [232—185]

A. So that the granulation would occur from the bottom, and when it was healed up level with the surface, to allow the skin to grow over it, because if the two edges were allowed to come together and let it heal together, it would never heal from the bottom and leave the wound open as a fistula.

Q. Altogether how many treatments did you give to the child? A. Fifty-six.

Q. How many of those treatments were made at your office, if you remember?

A. I can tell you. I made a memorandum of the number of times here.

Q. Have you the memorandum there?

A. Yes, I have it right here. (Produces memo.) There were two visits Mrs. Lappi made to the office with her child, March 7th and 8th. Then there were fifty-six; one operation local anesthesia at the hospital, and one operation with general anesthesia, —putting the child to sleep with chloroform, and fifty-four dressings independent of those four times.

Q. How many of the fifty-four dressings, outside



(Testimony of M. F. Hall.)

of the operation, took place at the office?

A. There were forty-one.

Q. Forty-one at the office?      A. Yes.

Q. You have described, as I take it, the treatment that you gave the child and the manner of dressing, shortly after the operation was performed, and in tying it up—tying the head up as you have described. Now, just go ahead and if there was any change in the method of dressing the wound or of holding the dressings in place, describe it to the jury or explain how it was.

A. This method of treatment was continued as long as there was [233—186] any sloughing or any discharge from the wound. As soon as the wound became clean and clear of any discharge and had commenced to granulate—all the surface, the bottom and the sides, had commenced to granulate well, then a dressing was placed in there—a gauze dressing was placed in the wound to prevent the edges from closing and to allow it to fill up, and more gauze placed over the outside, and not necessary to place on so much cotton and make such a big dressing to absorb and take up the discharge from the wound, I put some adhesive plaster, fastened it and held the dressing in place by adhesive plaster, and part of the time—another reason for doing that was in order to keep the dressing from rubbing and irritating the tender wound.

Q. Is that the proper and common way of dressing such a wound?

A. It is the best thing to use so that the dressing

(Testimony of M. F. Hall.)

will not irritate the wound by friction.

Q. In a dressing of that kind, using a little tape, is it necessary to remove the tape from time to time?

A. It should be done occasionally.

Q. Was it necessary, and did you, in making these dressings of the child, Selma Lappi, remove the tape that you had placed there?

A. After I commenced using that, about every third or fourth or fifth time I had to remove it.

Q. Describe to the jury how you removed the tape from the neck.

A. The first time when I put it on when it was fresh and new the piece was white and apt to fill in the whole angle of the jaw here and cover up the dressing. And the next dressing after fresh adhesive had been put on, this piece of adhesive was split,—cut crosswise,—so that the two edges of it could be turned back and exposed to view the [234—187] wound, and it was treated through that, and then soft cotton put over there; then the two laps—of the dressing you might say—of the adhesive were brought together again, and some little strips of adhesive put back across. The next subsequent dressing would consist merely of peeling off these pieces that were sticking to the first adhesive,—not to the skin,—peeling those off because it was painless, and laying it open; dressing it again, and putting on some others. But in all cases where the dressings are exposed to view, and around the edges, as a result of warmth and perspiration, the adhesive becomes—the rubber gets out from under the adhesive

(Testimony of M. F. Hall.)

and becomes black and dirty and disfiguring, and it is always customary to remove the adhesive—the bottom *lair*—and put on a fresh one; also in order to be sure that there is nothing underneath the thing which might cause any slight infection, any slight or little pimples or sores.

Q. Describe to the jury the method of removal of that adhesive.

A. I usually use a little chloroform on a dropper. I lift up one edge of the adhesive and drop it in the edge. As you drop it in the edge, immediately, instantaneously it softens up this rubber so that it peels right off as you come back. But around the edges of the adhesive where the adhesive has been there is almost always, when it has been on any considerable length of time, or on places where there is perspiration, or it gets soiled, the rubber turns black, and there some of the rubber has remained, and it is necessary to remove that thoroughly, and also where it has been adherent to the hair.

Q. Is there any resemblance between a piece of adhesive tape when it is placed upon the skin and removed, and a porous [235—188] plaster which everybody knows about, about it's sticking to the skin? Is there any resemblance?

A. Quite a bit, but not in the composition. But as far as the adhesiveness is concerned, this—(interrupted).

Q. Is there anything else besides chloroform that can be used to remove stuff of that kind?



(Testimony of M. F. Hall.)

A. Yes, sir, ether. Some use ether and some use chloroform.

Q. How about alcohol. Describe what effect alcohol will have, and how you have to use it in order to remove it.

A. Alcohol dissolves the rubber very slowly and requires a good deal of friction—you have to rub it pretty hard to start it with the alcohol, and, if the skin is very, very tender, it causes suffering. And particularly with the hair, the adhesive rubber which is left there, with the alcohol will dissolve the thinner layers of it and roll it up in a little ball, and it is sticky and hard to get off with the alcohol. You can get it off if you stay with the alcohol long enough.

Q. Do physicians, in removing adhesive from a wound, ever use alcohol in removing it?

A. Adhesive never comes in contact with the wound.

Q. But around it. Do they ever use alcohol?

A. For what purpose?

Q. To remove the remains of this adhesive.

A. I don't know any that do. I have tried it but it is not satisfactory.

Q. You say it requires rubbing to remove it.

A. Yes, quite a good deal of rubbing.

(Here the Court takes a recess until 2 P. M. to-day, and the jury retire in charge of the bailiffs, after being admonished not to talk about the case, etc.) [236—189]



(Testimony of M. F. Hall.)

April 21, 1915, 2 P. M.

Defendant and jury present. Trial resumed.

M. F. HALL, resumes his testimony on direct examination.

(By Mr. MARQUAM.)

Q. When you stopped before noon I was asking you about the method of removing this tape that held the dressing, and I was asking you something about the use of alcohol, and I don't know whether you had concluded what you had to say about that. But explain in your own way and make it clear to the jury, what you use, why you use it, and why you didn't use something else.

Mr. ROTH.—I think he has already gone into that fully.

The COURT.—He may answer the question.

A. What is the question?

(Mr. MARQUAM.)

Q. I was asking you at the time you concluded your examination before dinner why you used chloroform to remove these pieces of adhesive tape or what remained after the tape was taken off, and there was some question asked you about whether alcohol could be used to remove that. I don't know whether you answered it or not, but explain now why you used chloroform and why you didn't use anything else.

A. I think I started to say in regard to the use of alcohol that while alcohol will dissolve the rubber and remove it, it requires a great deal more friction.

(Testimony of M. F. Hall.)

Q. In removing it in cases where there is a wound which is healing, is it advisable to use alcohol for that purpose ever?

A. I wouldn't say that it is not advisable ever, but in this particular case, and in most cases, on account of the extra amount of friction that is required it is liable to [237—190] irritate the skin. The skin is naturally tender anyway on account of having the adhesive on there several days. It naturally is tender. And the removal of it off the superficial skin called the epidermis, the outer skin, the false skin, leaves it very tender, and what is left there of this adhesive rubber, the friction of hard rubbing required by the alcohol is liable to produce irritation; and any irritation near the wound is a thing to be very much guarded against and avoided.

Q. What is claimed of chloroform?

A. By the use of chloroform, just a slight touch of it, just the slightest touch, no rubbing at all, just a little bit of chloroform, a few drops on cotton rubber over lightly, and it disappears like magic. Ether is sometimes employed, but it does not dissolve it as quickly as the alcohol.

Q. As what?

A. As the chloroform. But it is a matter of choice. Some physicians use ether and some use chloroform.

Q. Is there any marked difference in the effect? I don't mean as far as the removal of the rubber is concerned, but as to the effect.

A. They both are anesthetics. Both have a ten-

(Testimony of M. F. Hall.)

dency, if enough is inhaled, to produce unconsciousness and anesthesia.

Q. Does the use of chloroform or ether in the way you have described have a tendency to produce that result?     A. No, sir.

Q. In your experience as a physician and surgeon, do you know of anything else that is ever used by surgeons for the purpose you have described besides ether or chloroform?

A. No, I have tried other things, but I don't know of anything that is.     [238—191]

Q. I am talking about the practice of surgeons generally. What do they generally use?

A. They use chloroform or ether almost exclusively.

Q. How many times during the fifty odd times or visits of this child to your office or at the hospital, outside of the time that you gave chloroform as an anesthetic, have you had occasion to use chloroform in connection with the removal of this tape?

A. Five or six times.

Q. I wish you would describe to the jury what was the effect, or how the child acted, upon these occasions when chloroform was used for the purpose which you have described.

A. When I used chloroform I took the chloroform bottle and put it up against the cotton, just a few drops on it, and the first one or two times as soon as she got the least smell of it, just the odor of it, whether it was very close to her face or a little ways off—it is very volatile and the odor travels rapidly—and if she got the least bit of that odor, she began to



(Testimony of M. F. Hall.)

feel afraid that we were going to put her to sleep.

Q. How did she act?

A. She put one hand over her mouth and the other hand pinched her nose together and held her breath, so that she would not get any of the odor of it; sometimes—

Q. Was that in every case, or occasion?

A. Every time that I used it.

Q. Was there anything else that she did at any time? I wish you would go ahead and describe in your own way, without waiting for each specific question, but describe so that the jury will understand, her whole actions on these different occasions, so as to give them a general idea of it. [239—192]

A. Sometimes that was all that she would do. She would just simply hold her breath with one hand over her mouth and the other hand over her nose, and she would try to hold her head away a little bit; and I would have Mrs. Hall, or whoever was there—one day her father was there and I had him assist, until after I had just rubbed this thing across there—it only took just a very few seconds, and that was all. And other times she was particularly nervous, she would, as I say, put her hand over her mouth and the other hand or fingers pinch her nostrils, and she would stiffen herself up as rigidly as she could, try to resist it, try to keep from getting the odor of it as she explained; and on two or three occasions she just threw herself right back on the table, and when she would do that I would just go ahead and do that right quickly and fix my dressing and put my hand under



(Testimony of M. F. Hall.)

her and raise her up, sit her up and finish up the dressing.

Q. Were there any other manifestations on the part of the girl at any other time different from or in addition to what you have already stated?

A. Once or twice she cried, and on one particular occasion when I picked up the bottle and commenced to get ready, she put both hands over her mouth and over her nose, and when I came towards her with it she stiffened herself up and acted in a hysterical manner, if you understand what hysterics is, and as I came towards her with it and put my hand up ready to put it on, I said, "You must be a good girl and let me put it on. It will only take a second, and I won't hurt you." And she said, "Don't spank me. Don't hurt me and do that any more. I will be good. I will be good. Don't spank me any more." I hadn't touched her at [240—193] that time except to put her on the table. I hadn't made any application of the chloroform at that time. And I laid it down and put my arms around her and tried to soothe her and quiet her, and told her that she must be a good little girl, and while I was talking with her I reached around and got hold of a piece of cotton and I said, "I will take this piece of dry cotton and rub this off." and I started to rub it off, and she got a little whiff of it just as I got through and put her hands over her face again, and I walked away from her and she looked around and saw it was all over.

Q. After one of these occasions when chloroform was used, describe to the jury what would be her appearance as far as being calm or frustrated, or red in

(Testimony of M. F. Hall.)

the face? A. She was a very, very nervous child at all times, very nervous, and after her dressings, even when they were the smaller ones, when chloroform was not used at all, but just the removal of the dressings from the wound and replacing them by putting in new ones, she was always very nervous and didn't like the dressings, tried to resist them as much as she could, and always became very, nervous and very red in the face, and often times when nothing was done at all, just when she first came in and when I started to talk with her, she would flush up.

Q. During the course of treatment that the child received, were you watching and observing her weight as to whether or not she was losing or gaining in weight? Describe to the jury what you did in that particular in the way of weighing her or anything of that kind, and why you were doing it.

A. The first time she came to the office after the operation, this is after the operation at the hospital, which was two [241—194] or three days later, I thought it would be necessary to notice the improvement as a result of the operation, and I took her into the next room—there was a vacant room there that I had previously occupied and moved out of, and, having no room for my scales in my office I had left them in that room, so I have for the last year took my patients in that room and weighed them in there—and I took her in there with her little brother and weighed her, and every three or four days, or four or five days, I would take her and whoever happened to come there with her and take them in there and weigh them, and I suspected that this trouble that

(Testimony of M. F. Hall.)

she had might be of a tuberculous origin as it had all the appearance of it, and I was anxious to find out how much she increased in weight, because that would be one of the guides, one of the things that would help my conclusions as to whether or not it was tuberculous or simply due to injury or some other cause; so I weighed her very frequently.

Q. What was the result of your observations in that particular as far as her gaining in weight or losing in weight?

A. A very marked improvement in her weight. She gained I think in the first ten days a pound and three-quarters, and the first twenty days she gained over three pounds in weight.

Q. I understood you to say in your direct examination this morning that along about the 21st of September she was there upon one occasion for treatment and that you had given her some directions about a certain time to come back. Do you remember when that was, and what were the circumstances in connection with it? [242—195]

A. On the 21st day of September, after I had finished my dressing, I told her to come back on the following Thursday. Previous to that she had come the Saturday before, skipping Sunday. I had no patients on Sunday that day, and I had her skip that day, and three or four days before that she had skipped. Monday I told her to come Thursday and that would probably be the last time; that it would be necessary for her to come because the wound was nearly all healed—one little tiny spot where the skin had not quite covered over, and I put a little dressing on that



(Testimony of M. F. Hall.)

and a little piece of adhesive over that, and a handkerchief outside of that.

Q. Was the course of treatment which you administered to the child successful?      A. Yes.

Q. The child was cured?

A. No, I wouldn't say that. It was successful as far as I was allowed to go. I wasn't allowed to treat the case as thoroughly as I desired to go.

Q. What do you mean by that; that you were not allowed to?

A. Because the mother would not permit me. From time to time—In the first place, she would not permit the early operation which would have prevented any continued treatment. That particular gland which was diseased, and three or four others which broke down as a result of delay, following the operation they were thoroughly cured and thoroughly cleared up. There were still some other glands in there which I feared might break down, and I felt as though if it was a child of mine I would want them removed as a matter of safety.

Q. Was there any special time during the day during all this [243—196] period of time which was common to all these appointments that you made for her, and was there any reason for making any particular time of day?

A. My office hours were from 3 o'clock in the afternoon until 6. Those are the only office hours which I have. Those are the hours I always plan to be there, unless there is some exception; so I always planned to have her come immediately from school as it seemed to be a convenient time for her to come.



(Testimony of M. F. Hall.)

Q. What time did she usually come?

A. It averaged anywhere from 3 o'clock to a quarter to 4.

Q. How long a time on each occasion would she be at your office?

A. That varied. During the earlier dressings it was necessary for her to be there sometimes from half to three-quarters of an hour because the wound was very tender and sensitive and I had to be very patient with her and fuss along, and sometimes it would take a long time before I got through.

Q. Later on would the time shorten?

A. Yes,

Q. As a result of your directions, did the child come to your office on Thursday the 24th of September? A. She did.

Q. What time of day did she come there, do you remember?

A. It was between—I judge it was between—pretty close to 3 o'clock.

Q. Do you remember who was there, if anyone, besides yourself?

A. There was no one there. I think I arrived at the office before she did, and she came very soon afterwards. [244—197]

Q. From the time she arrived at the office and you started in to give her the regular treatment, describe to the jury just what you did upon that occasion.

A. Well, when she first came in I asked her to sit down for a few minutes, take off her coat, and she took off her coat and sat down for a few minutes,

(Testimony of M. F. Hall.)

and I sat down to my desk and attended to some writings and memoranda that I wanted to make, and while I was doing this Mr. Dundon came to the door, he and another plumber who were busy in the next room doing some plumbing work and repair work, and he come to the door, and the door wasn't quite closed,—it was open probably an inch or two inches,—knocked on the door, and I told him to come in, and he stepped in and said, "I hope I am not disturbing you." I said, "No, not at all. While you are working just come in and go just as you please. You need not knock at all."

Q. What was he doing? What was the occasion of his being in your office?

A. He was doing some plumbing. There were some valves in my room that had to be opened and closed to control the steam supply to the pipes he was working on in the other room. Then after he went out I took Selma up and set her on the end of the table the same as I had always done, and took off the handkerchief and moistened this piece of adhesive, softened it up enough so it peeled off, and removed the little particles of gauze which remained there which was adherent to the wound or what had been the wound.

Q. Describe to the jury what there was on the child at that time with regard to this adhesive tape, and when you had put that on.

A. I put that adhesive tape on the Monday previous. And on [245—198] Monday previous to this time the wound, which had been quite a long incision—an inch and a half or more and very deep—

(Testimony of M. F. Hall.)

had all healed up with the exception of a little tiny spot in the center, perhaps as large as the head of a pin; it might be a slight trifle larger, and over this I had put on a little iodoform gauze and a little piece of cotton to protect it, and over that I had put a small round piece of adhesive, just to cover that up and protect it from injury, and for the good looks of the thing. I had been accustomed to fasten a handkerchief around her neck. Before that I had been putting bandages around, and I suggested to her mother that a handkerchief would be easier for her to use because she could change it and put a clean one on.

Q. That dressing, as you had placed it on there, was on there when she came?

A. It was. I moistened that little piece of adhesive and it peeled off. I removed my dressings which were underneath, and around the edges of where this adhesive plaster had been struck, which had been on there for four days, it left a black ring or rim, a black mark where the rubber had become soiled from perspiration or dirt or whatever it was, and I took my piece of cotton and rubbed that off, and then I rubbed it over the entire wound because it was entirely healed over.

Q. What occurred when you did that?

A. When I did that, when I started to do that, she put her hands over her face, one hand over her mouth, and with the other hand she pinched her nose and tried to hold her breath, and stiffened herself up and threw herself back on the table, and she made this remark, she said: "You [246—199] shouldn't do that. It is not right to do that. I don't want



(Testimony of M. F. Hall.)

you to do that," and kind of in a very low tone and under her breath; and when she fell over backwards; there is a pillow lying on the operating-table, and she held herself in that position, and I just took that little cotton and sponged this stuff off, and that was all that there was to do. So I told her to get up. She didn't make any movement to arise, so I put my arm under her neck and my hand on her stomach like this (showing) and straightened her up. First I tried to life her up, and she wouldn't rise, and then I put my hand on her stomach, and I don't think the child thought I was through with my dressing, and she was just holding herself just like that, just rigid.

Q. When you set her up on the table, what was her appearance at that time?

A. The same as it had been on previous occasions.

Q. What was it?

A. She dropped her hands down away from her face, and looked up at me and acted as though she was frightened, the same as she had before, and nervous, a little bit shakey, and she was red in the face, the same as she always was on those occasions.

Q. After that, what did you do?

A. I put my arms around her and petted her and soothed her, the same as I would any child, and I picked her up in my arms and went over and sat down on the couch with her and held her on my lap for some three or four minutes and tried to talk with her, and asked her if she was frightened, and she said, "Not very much now." I said, "You look as though you didn't feel good. Do you feel bad any-



(Testimony of M. F. Hall.)

where?" She said, "Yes, I feel bad here," and put her hand on her side. [247—200] I said, "Does it hurt you there in your stomach?" She said, "Yes." And I put my hand down and commenced to rub her around on her little abdomen, around on the outside like this (showing), I asked her if it still hurt, and she said, "Yes." Then I put my hand under her clothes and slipped it in the little place—the child's drawers are buttoned on the side, so there was a split down on the side of them. Those who have children—(interrupted).

Q. Describe it.

A. So that one button, the button of the flap which runs around behind, buttons on the same button that the flap of the front buttons on, so that in case a child needs to let their drawers down, they unbutton these two buttons and the back part drops down. There was a slit here the same as in a little boy's trousers where they button on the side. I put my hand in through there and rubbed the child and massaged her on the abdomen the same as we are warranted in doing, and the same as I would want any physician to do with my child, or any other child, under similar circumstances where she complained of distress.

Q. I will ask you to state if at that time you said to her that you wanted to see how fat she was, or whether she had gained any weight?

A. No, I made the remark to her, while I had my hand there, I said: "My, you are getting to be a fat little girl. You are just picking up. You are getting fat right fast." And how pleased I was to think that she was improving. In fact, I had re-

(Testimony of M. F. Hall.)

marked that to her a good many times.

Q. I will ask you if at that time, or at any time while you held the child in your lap, or at any time that she was [248—201] in your office, you placed your hand on any part of her person under her clothes, except as you have described.

A. No, not that I know of, unless I touched some part of her body in passing, that I don't know of. I never intentionally touched her any place. I might have put my hands on her limbs. I won't say positively that in putting my hand in here, I didn't touch her limbs anywhere or any place, and in putting my hand up under her dress I won't say positively that that I touched her limbs; but I did not put my hands on her privates, or touch them.

Q. Have you, at any time, in regard to Selma Lappi ever placed your hands upon any of her private parts?

A. I never did. I never had any thought of such a thing, or desire.

Q. I will ask you, Doctor, if it is true that at that particular time, or at any other time, you kissed this child upon the leg or near the knee, or upon the cheek?

A. No.

Q. Is that statement true or otherwise?

A. I never kissed her on the knee and I never kissed her on the face. I put my arms around her like this many times when she was nervous and petted her and held her close to me, and put my face close to her face and tried to soothe her and comfort her.

Q. You heard the child's testimony about her ly-

(Testimony of M. F. Hall.)

ing down on the couch and about you lying down on the couch. Tell the jury whether anything of that kind occurred?

A. No, The fact is this. My couch lies lengthways, the same as this place would be right here. The couch was lengthways [249—202] here in the corner of the room, and there are some five or six or seven pillows lying piled up, banked up, in the corner. When I took her from the table, which is on this side of the room (indicating), I went over with her to the couch and sat back on the corner of the couch the same as I am here, and just leaned up against those pillows which are in the corner—those soft cushions, and I did probably lean back about as much as I am now. That is my usual position when I—(interrupted).

Q. Were you sitting at your desk in the chair when you were holding this child on your lap or knee at any time? A. No.

Q. Did, at any time, the child lie down upon the couch in the way that she described it? A. No.

Q. You heard her testimony?

A. Yes. She never went out of my arms, as far as her relation to the couch is concerned, from the time I picked her up until—when I took my hand away from her abdomen I noticed that there was one button of her drawers that was unfastened and I told her to fasten that up and then sit down. But she never lay down on the couch at all. And the only time when she was sitting in my lap and I was leaning time that she and I were both on the couch was the



(Testimony of M. F. Hall.)

ing back against these pillows.

Q. How long did she remain there?

A. Altogether I should say she might have been in the office from the time when she first came, maybe twenty minutes.

Q. I refer particularly to the time that you held her on your lap. [250—203]

A. Just a few minutes, maybe four or five minutes. I couldn't say; there is no way of estimating that.

Q. Had this occurrence or a similar occurrence taken place before while she was there in your room, about you holding her on your lap?

A. I may have taken her on my lap, but never when there was no one else in the room, because that was the only time I was ever alone in the room with her when she was there.

Q. Had your wife been there on different occasions when this occurred?

A. Yes, she was there the majority of the time when Selma came there for her treatment.

Q. Do you remember on this particular occasion of any candy being given the child?

A. I am not positive, but it is quite probable. All the time Mrs. Hall was there she always had candy sitting on the table, and she frequently gave it to children. I may have given it. It is more than likely I did, if there was some there, but I don't remember that particular incident.

Q. As far as her appearance went; as far as the flushed condition of her face, or her face being red, or her being nervous, I will ask you to state if there



(Testimony of M. F. Hall.)

was any difference in her appearance on this particular, at this particular, time than any other time when you had occasion to use chloroform in the manner you have described.

A. No. no difference from any other time. Just changing the dressings on Selma caused her considerable distress—taking the dressings out and putting them back—and she was often hysterical, and did similarly when there was no chloroform used at all, just from the tenderness of the wound when the dressings were being made. [251—204]

Q. During the time that the child was at your office, do you remember how many times, or how long at any one time, or what the circumstances were, about this plumber, Mr. Dundon, coming into your office?

A. Yes. He came in twice. He came in the first time, as I stated, while I was making my memoranda and laying out my work for the afternoon.

Q. Where was the child then, do you remember?

A. I think she was sitting on the corner of the couch waiting for me to do the dressing.

Q. Do you remember of him coming in at a subsequent time that the child was there, and what she was doing, and what you were doing?

A. Yes. He came in again about 8 or 10 minutes after that, and the child was sitting on the couch, after the dressing, and it couldn't have been over 8 or 10 minutes while that little dressing was going on and I had her in my arms and was sitting on the couch.

Q. Was the door to your operating-room, or what-

(Testimony of M. F. Hall.)

ever you call it—consultation-room?

A. Consultation-room or dressing-room.

Q. The inner room?      A. Yes.

Q. Was that door locked at any time while the child was in there?

A. No. I am not sure it was closed, that is, not closed tight. It was closed part way to, or very nearly.

Q. I understood you to say that the plumber came there while the child was there?      A. Yes.

Q. And that he said something to you. [252—205]

A. He did.

Q. What was it he said?

A. The door was open then an inch or two, and he knocked on the door and he said, "I hope I am not bothering you." I said, "Not at all. Come in and go, just as you like. You won't bother me at all."

Q. Did you say anything to him about knocking, or not knocking?

A. Yes. I told him he needn't knock. I said, "You can come and go just as you like. You need not knock at all."

Q. At no time was the door of your room locked?

A. No, I don't think it was closed tight at all.

Q. Where was Mrs. Hall at that time, do you know?

A. Mrs. Hall and I had just had a little lunch out in our tent.

Q. Where was this tent that you refer to?

A. On the lot where we live now on the corner of 6th and Cushman.

Q. Were you sleeping there?

(Testimony of M. F. Hall.)

A. Sleeping there, but not eating there but very rarely. But we had some little delicacy and were having a little lunch that day there, and I told her I must be down at the office by 3 o'clock, and went away, and she said she would be down soon. She got things tidied up a little bit and she came down at half-past three.

Q. By the time she came down had the child left?

A. Yes, I think she had been gone some ten or fifteen minutes—ten minutes anyway.

Q. Was that the last time that the child was at your office?      A. It was.

Q. What was it that you told her about coming any more, if anything, or not coming any more? What was your directions?

A. After she went out of the room and started to go home, she[253—206] started to come back and she said, "When am I to come back again?" I said, "I don't know that it is necessary for you to come at all, Selma, but you drop in in a few days, maybe Saturday, Sunday or Monday, just drop up if you wish and let me take a look to see that everything is all right." I didn't put any dressings on at all, just fastened the handkerchief around her neck.

Q. Was that the first time she left the office without her neck having dressing on it?

A. Yes, the first time.

Q. She was not there Friday? It was not a Friday she was there the first time?

A. No. It was Thursday.

Q. Did you give her any directions or make an



(Testimony of M. F. Hall.)

appointment with her to be back Saturday?

A. No, no definite appointment. I told her—(interrupted).

Q. You just stated that. You need not repeat it.

A. Yes.

Q. How many times do you think, during the time you were treating the child, that she came to your office alone, or without her mother or brother or some other person?

A. Why, I imagine two or three times. I am not sure, because sometimes when she came and her brother came with her I didn't see him, and I couldn't tell whether he was there or not, but there would be a number of patients out in the other room, and I would just step to the door and Mrs. Hall would indicate, if she was there, whose turn it was, and I would tell the child to come in. Many times when the boy was there I didn't know about it.

Q. What proportion of the times that Mrs. Hall was there would [254—207] Mrs. Hall be in the operating-room during the time you were dressing the wounds?

A. She was there, I should imagine, about three-quarters of all the dressings, in and out. Sometimes she would come in and help me, if I would call her, I had a push button there, and I would press the button to have her come in and get something for me, or to hold Selma's head or hands. Shortly after the dressing was over—she had a dress that buttoned up in front and it was high and I had to have the buttons unfastened, and I would sometimes have to have



(Testimony of M. F. Hall.)

her dress unbuttoned behind, and I would call Mrs. Hall in to fix her up.

Q. After the Thursday, the 24th of September, did you see Mrs. Lappi after that, and if so, when did you first see her?

A. On the following Monday.

Q. About what time of day?

A. It was upon my return from the hospital. I couldn't say exactly, I imagine it was sometime between 11 and 12 o'clock, because that is the usual hour of getting back to the office in the forenoon.

Q. Just describe to the jury in your own way exactly what occurred when you saw Mrs. Lappi on this occasion.

A. I had my grip in my hand, and I opened the door and stepped into the office. I saw Mrs. Lappi sitting in the chair. I said, "Good morning, Mrs. Lappi," and she didn't say anything at all. And I stepped through into the next room and deposited my grip and my hat and coat, and came back again, and said, "It is a lovely day." But she didn't say anything at all.

Q. What was her appearance at that time?  
[255—208]

A. Her eyes were very snappy and she was white and looked as though she was pretty much excited about something or other. I didn't know what the trouble was.

Q. Tell what was said.

A. And the first that she said was, "What do you mean"? I said, "What do I mean? What do you

(Testimony of M. F. Hall.)

mean? I don't understand you." And then she said something to the effect of, "What do you mean by tackling young girls," something to that effect—I don't remember the exact words. I said, "Tackling young girls? I don't understand what you mean." *He* said, "Yes, you do. My child don't lie. My child came home and told me that you unbuttoned her little panties and kissed her on the bottom." I said, "Mrs. Lappi, I didn't do any such thing." She said, "Don't you tell me that. My child don't lie. I know that you did, and you are an old brute," and went on and talked fast, and began to talk so loud that I got up and walked over to the door and said, "Mrs. Lappi. Don't talk so loud. If you have any complaint against me to make, tell me what it is so that I can understand it. When did this happen? What do you mean?" She said, "The last time that the child was down here. My child don't lie." She kept repeating that—"She came home and told me that you unbuttoned her little panties and kissed her little bottom." I said, "Mrs. Lappi—(interrupted).

Q. What was her manner of talking at that time?

A. She was very much excited. She talked loud and shook her fist in my face, and I tried to get her to keep quiet, and tried to get an opportunity to get at what the trouble was, so that I could understand and have a talk with her about it. She said she would talk as loud as she wanted; she didn't care who heard what she had to say, and she was going [256—209] to tell everybody she knew all about it, and I said,

(Testimony of M. F. Hall.)

“Here, Mrs. Lappi, I am not going to stand for such talk as this, or any such language to me; it is not fair, and we are not both of us going to stay in this room. If there is going to be any more talk, you will have to talk less, or we will have to have a witness here. You go over and get Mr. Crossley and bring him over here, or anybody else, and we will talk this over, and you can tell what you have to say and I can tell what I have to say. If you don’t want to do that—” I am saying this as I said it, in a very connected way now, but I had very much difficulty in saying it in one sentence, as she was constantly interrupting me—I said, “If you want me to, I will go over with you.” She said, “I don’t care anything about Mr. Crossley. I don’t want Mr. Crossley. I am going to punish you. I will fix you plenty.” And I stepped out in the hall then to get away from her and was going downstairs to leave her there to talk to herself. When I stepped out into the hallway, she followed me out and said, “If ever you speak—” something to that effect—“If ever you speak to either one of my children again, I am going to shoot you. My husband paid you sixty dollars, and you will never get another red cent out of us. And don’t you send us any bill.” And the last thing then, I turned around and started back to the office from the head of the stairs, and she went down the stairs making some more remarks about me tackling little innocent girls, a man of my age tackling these little innocent girls when there were plenty of women who could be tackled, or something to that effect—I can’t re-



(Testimony of M. F. Hall.)

member the exact words. That is the last time I ever talked with her. [257—210]

Q. Were you able at that time, doctor, to talk with her, or would she listen to anything that you had to say? A. No.

Q. —in the way of what had occurred at the office, after your attention was drawn to the time that she referred to?

A. No. I had no opportunity whatever of telling her anything of what had occurred. I had difficulty in making anything out of what she said. I went back to my room and I was just dumfounded. I didn't know what she was driving at at all. I never dreamed of anything of the kind. I didn't know whether she was trying to get ready to make an excuse for not paying her bill, or whether she had some other scheme. I didn't know what it was.

Q. When did you next hear from this matter, or about this matter?

A. I didn't hear anything about it then until—(interrupted).

Q. That was on Monday at what time?

A. On Monday, I imagine between 11 and 12 o'clock. It was when I got back from the hospital.

Q. When did you next hear anything about this?

A. So, on the following day when I came back from the hospital, Mrs. Hall came from a visit to Mrs. Lappi, and the matter was brought up between us again.

Q. And thoroughly discussed at that time?

A. Yes.



(Testimony of M. F. Hall.)

Q. Has the bill for the remainder of your account for this operation and treatment been paid?

A. No.

Q. Have you sent any bill to her?

A. I mailed her a bill on the first of October.

Q. And no response to it. Is there anything that occurs to [258—211] you, Doctor Hall, with reference to the child Selma Lappi, which occurs to you that I have not asked you about, that has any bearing upon this matter? It seems to me I have covered the ground, but there may be something that occurs to you. If there is, you may state it.

A. You mean with regard to her treatment, or what?

Q. I thought there might possible be something that I have overlooked, but if you think of nothing, we will go to a later phase of the this case—about the child Charlotte Geis. You heard her testimony yesterday? A. I did.

Q. I will ask you how long you have known the child.

A. I have known Charlotte since 1906.

Q. Have you had occasion to treat her or care for her in your professional capacity as a physician?

A. My books show that I treated her twice; once in September, and once in October, of 1910. She had a sty on the lid of one of her eyes.

Q. Do you know the Geis family?

A. I do.

Q. Have you at any time acted as the family physician for the Geis family? A. I have.

(Testimony of M. F. Hall.)

Q. For how long a period of time?

A. Several years.

Q. Do you remember of Charlotte being at your office on an occasion—I will ask you if you had occasion some two years ago to treat the little boy Charley Geis? A. Yes, sir.

Q. Describe what that was for?

A. I treated Charley in the month of August, 1912—that is three years ago next August—for a cut over his eyebrow [259—212] I think it was the right eyebrow. He said he was struck with a baseball bat, and I treated him.

Q. Do you remember the circumstances of his coming to your office? A. I do.

Q. Do your books show that, or do you remember it?

A. I remember it, and my books also show (reads) on August 10th, 11th and 12th,—

Q. They show that he was at your office.

A. Yes.

Q. In connection with this cut that he had that you treated. A. Yes.

Q. On any of those occasions did his sister Charlotte come with him? A. Yes.

Q. On more than one occasion?

A. I don't think so.

Q. You don't remember, or do you remember which occasion of these three it was that Charlotte came with him?

A. She was there the last treatment.

Q. How long was she there while you were dress-

(Testimony of M. F. Hall.)

ing his cut?     A. About ten minutes.

Q. Were you occupying the same offices then that you are occupying now?     A. No.

Q. Where were your offices at that time?

A. I occupied the rooms in the front corner of the building, over the Red Cross drugstore. Those I occupy now are just over the rear part of the Red Cross.

Q. Your operating room of the old offices was on the corner?

A. Yes, on the corner, three windows on this street and one [260—213] on Second.

Q. On the occasion of Charlotte coming there, do you remember while you were attending to the boy what the little girl was doing?

A. Yes, she was—(interrupted).

Q. Where did this treatment occur?

A. In the consultation or operating room, whatever you choose to call it.

Q. Where was Charlotte at that time?

A. While I was dressing Charley, she was sitting at the desk in the same room with us. The dressing-table in that room faced the same as facing me; supposing the windows are on this side of the room, it would be the same place as this table is, and my desk stood in here in this corner of the room, and there was a chair behind it, and the couch was in the corner beyond. When she came in she was poking around the desk, and I went over and gave her some crayons or some colored pencils and I laid out some paper for her to play with, and she stood there and



(Testimony of M. F. Hall.)

wrote her name and her age and Charley's name and his age.

Q. How old was she at that time, do you remember, about?

A. She was seven years old, a little over. And when I got through with Charley, I went around there and sat down in the chair where she was doing this, and picked her up in my lap and was looking over the work she had done and talking about it, criticising it.

Q. Where was the boy at that time?

A. He stood right beside the table, right beside the desk.

Q. Do you remember on this occasion whether the boy went out before Charlotte, or whether he was there during the whole time she was there? What is your recollection of it? [261—214]

A. He left just a moment or two before she did.

Q. Go ahead and tell what occurred.

A. I remember asking the kid whether she had ever seen anybody make money, and she said, "No." I said, "Do you want to see me make some?" And they both said, "Yes." And I had a piece of tin-foil there that came out of a cigar-box. I think it came out of a cigar-box. I took a half a dollar and rubbed it with a piece of wood or a lead pencil so as to make the impression of the money on this tin-foil. Then I took a pair of scissors and cut it out of that; entertaining them. And then I took a piece of paper and the but end of a lead pencil and laid it over the coin, and sat there for quite a few minutes,



(Testimony of M. F. Hall.)

and I would let them try it to see what they could do. During this time Charlotte sat in my lap, and I won't be positive it was before Charley went away, but Charley went to the door once or twice and said; "Sis, aren't you coming?" But she was very busy about this, and wanted to make some more money. I am not sure if it was just after Charley went out of the room, or just before, that she looked up quick and said, "You never saw the cut I have, did you, on my leg?" I said, "No." She said, "I will show it to you." So she pulled up her little dress, and pulled up her bloomers, slid them up on her leg and said, "There it is there." I put my hand down on it and felt of it, felt of the scar there, and said, "You did get a cut there and a big one." And I asked her a few questions about it while I was looking at it and examining it. And then she went on with her work.

Q. You heard her statement yesterday that she had spoken to you about this, but hadn't showed it to you, but had pointed to where it was through her dress. Is that true? A. No. [262—215]

Q. You have seen that wound? A. I have.

Q. On this occasion? A. On that occasion.

Q. On any other occasion? A. No.

Q. Will you describe where that wound is located, and give a description of it, and what you saw there at that time?

A. As I remember it, that wound was a ragged, jagged wound. It was long. The length of it, the longest part of it was lengthwise of the limb, and it was an irregular wound; and extending from one

(Testimony of M. F. Hall.)

side of it, my impression now is that the scars run from the main scar, which run lengthwise,—that there were more extensions of that ragged scar extending from that more to one side than to the other. The wound must have been an inch and a half or two inches long, or near that at that time, and it was purple; reddish in some parts and purple in the other part of it. That was the color.

Q. Could you tell from the appearance of it how old it was?

A. It was not a very old wound, but it must have been healed over for several weeks.

Q. It was entirely healed over.

A. Yes, entirely healed over. There was no dressing on it of any kind, and it was entirely healed.

Q. Show to the jury, and explain to them where that wound was located upon her leg. Do you remember which leg it was on?

A. I think it was on the right leg.

Q. How far up on the leg would it be?

A. My recollection is that it was pretty high up. It was at least two-thirds of the distance from the knee to the [263—216] hip bone here. I should judge about two-thirds or three-quarters of the way up here, and well down on the inside.

Q. You placed your hands on it and examined it, and talked to her about it?

A. I did, and I asked her all about it; when she got it, and how, and who took care of it, and how long it was healing up. I asked her a lot of questions about it.

(Testimony of M. F. Hall.)

Q. On that occasion was there anything else done by you as far as touching her person with your hands?     A. No, sir.

Q. On that occasion, or I will ask you if upon any occasion, did you ever place your hands on the private parts of Charlotte Geis in the way that was indicated here yesterday?     A. No, sir.

Q. After she had asked you this question, whether you had ever seen this cut she had, and showed it to you, and you examined it, how long was she there after that?     A. Just a very few minutes.

Q. When did you ever hear, or when was the first time that you ever heard, any statement or any report with regard to you having mistreated Charlotte Geis, since that time? When was the first time that you ever heard about it?

A. It is two or three weeks; not over three weeks ago, and not less than two weeks.

Q. Do you remember from whom you heard it?

A. I heard it from Doctor Hedger.

Mr. MARQUAM.—You may cross-examine.

(The Court takes a short recess, jury in charge of bailiffs. Trial resumed after recess; the defendant and jury present.) [264—217]

M. F. HALL, resumes his testimony.

Mr. MARQUAM.—Just one more question

Q. I would like to ask you this question: What would be the probable effect from lapse of time upon a wound such as the wound that you described that Charlotte Geis has, from the *the* time that you saw it until the present time, that is, in regard to its size?



(Testimony of M. F. Hall.)

What would be the probable result in the meantime?

A. That was two years and a half ago. It would be smaller. It would have an appearance of being smaller and more contracted, and the color of it would have changed very much by this time; instead of being purple and reddish, it would be white, a lighter color than the surrounding skin, except when the skin was cold. When cold it would turn blue.

Q. As to the size of the wound, you say it would be smaller? A. Probably smaller.

Q. Taking into consideration the age of the child at the time you saw it. A. Yes.

Mr. MARQUAM.—You may cross-examine.

Cross-examination.

(By Mr. ROTH.)

Q. Where did you say that wound was on Charlotte's leg?

A. On her thigh, on the inner side of the thigh of her leg.

Q. And the length of the wound was with the length of the leg?

A. As I remember it, the general direction was with the length of the leg, the general direction.

Q. And it was nearer the hip bone than the knee bone. A. Yes. That is my impression.

Q. You think about two-thirds or three-quarters of the distance.

A. It was a little beyond the middle, anyway. I can't be [265—218] positive about that.

Q. You took very particular notice of the wound at that time.



(Testimony of M. F. Hall.)

A. I did. It impressed me at the time, as all those things do.

Q. You had been the family physician for the Geis family prior to that for sometime.

A. I think from 1906. I don't remember exactly.

Q. And you acted for Mrs. Geis in a confinement case immediately after this, did you not?

A. About four or five days afterward. According to my books the last time Charley was at my office was on Monday the 15th—Monday the 13th, and this child was born—(witness examines book). The 10th, 11th and 12th were the days that Charley was at the office, and the baby was born on Sunday the 18th, following.

Q. Do you remember the occurrence of an excursion on the river?

A. There was an excursion held that week. I don't remember the date.

Q. Do you remember that that was Saturday; that the excursion was on Saturday?

A. I don't remember positively about that. I remember I stayed away from the excursion on account of Mrs. Geis, expecting to be called to attend her.

Q. Do you remember what day Mrs. Geis went to the hospital?

A. She went to the hospital, I think it was Sunday.

Q. The child was born on Sunday, the 18th?

A. Yes. I won't be positive whether she went the evening before, or whether she went in the morning.

(Testimony of M. F. Hall.)

Q. Don't you think it was the day before that she went to the hospital that Charlotte came to your office with Charley? A. No.

Q. You couldn't possibly be mistaken about this wound being [266—219] up and down the leg?

A. Certainly it is possible for me to be mistaken. I just state my impression, as I remember it.

Q. Well, I understood you were describing the wound. A. As I remembered it.

Q. For the purpose of showing that you did see the wound at the time. A. Yes.

Q. Now, if it should transpire that that wound was straight across the leg instead of being up and down at all, you would be very much surprised, wouldn't you?

A. No, I won't say that I would be surprised, but I would say that my memory hadn't served me properly.

Q. Might it not be so that you inquired about that from Mrs. Geis? A. No.

Q. And you are speaking from memory of what she told you? A. No.

Q. Or speaking from memory from what Charlotte Geis told you, without seeing the wound?

A. No, I saw the wound. Charlotte showed it to me, as I said.

Q. When did you first see Mr. Lappi, the father of Selma, after the 24th day of September, 1914?

A. It was either the 18th or 19th, I think, of August. I sent out for them to come in.

Q. I mean after the 24th day of September, when

(Testimony of M. F. Hall.)

was the first time that you saw John Lappi, the father of Selma?

A. I beg your pardon. On his return from Ruby, after he came back from Ruby, sometime in the winter.

Q. Where did you see him?

A. I saw him at the Moose hall. [267—220]

Q. Didn't you see him in the Fairbanks Saloon?

A. Not that I remember of.

Q. You say you mailed a bill for the balance on the 1st day of October, 1914. A. Yes.

Q. To whom did you address it?

A. To Mr. John Lappi.

Q. Where? A. Fairbanks.

Q. Of course, you know that Mr. John Lappi wasn't here then. A. I did.

Q. For how much was the amount?

A. Sixty-five dollars.

Q. Didn't he pay you sixty-five dollars?

A. He paid me sixty dollars.

Q. Didn't he pay you sixty-five?

A. I don't think so. I will look at my book and see.

Q. You have it right there? A. I have.

Q. See if it was not sixty-five dollars that he paid you.

A. (Examines book.) September 9th. Credit \$63.00.

Mr. ROTH.—That is all.

Mr. MARQUAM.—That is all. [268—221]

**[Testimony of Thomas Dundon, for Defendant.]**

THOMAS DUNDON, a witness for defendant, after being first duly sworn, testified as follows to wit:

Direct examination.

(By Mr. MARQUAM.)

Q. Your name is Thomas Dundon.      A. Yes, sir.

Q. You reside in Fairbanks,      A. I do.

Q. What is your business?      A. Steam fitting.

Q. Employed by the N. C. Company?      A. Yes.

Q. You have just left your work now to come here?      A. I did.

Q. I will ask you if you remember of having done any work in the Red Cross building in the offices occupied by Doctor Hall sometime last year, last fall.

A. I do.

Q. Have you had occasion to refresh your memory as to the time that you were there, from any memorandum or book that you have?

A. From a daily report that I keep.

Q. Tell the jury on what day you were there working, doing that work.

A. By my book on September 24th.

Q. Just describe to the jury what work you were doing, and what rooms you were in, and how long you were there, if you remember.

A. Why, the purpose I was there for, I was making a connection [269—222] in the rooms in the front of the Red Cross Building that are occupied by the dentist Trabue, and I had to make a connection from the corner of the building. There was a



(Testimony of Thomas Dundon.)

steam pipe coming up there, and a valve, and this steam fed the building. While these rooms were not occupied, this valve was closed.

Q. Which rooms were not occupied?

A. The front rooms.

Q. Those were Doctor Hall's old offices?

A. His old offices. Whenever they were occupied, I had to get back in there and make that connection. That was the purpose I was there that day, making that connection to heat the rest of the front of the building.

Q. Do you remember or know a child by the name of Selma Lappi?

A. Why, I know the girl by name better than I do by sight.

Q. I will ask you to state Mr. Dundon if at any time you were in the doctor's offices there in connection with your work, and having occasion to go into Doctor Hall's offices—the ones that he occupied then, did you see a child of that description in there?

A. I want to answer right. Of course, I saw a child, but as to who the child was I couldn't say.

Q. How old a child was it? About how old, could you tell?

A. Well, I couldn't. I couldn't say what time it was. My books show I was there three hours that day, but I don't know just the exact time. I know it was a young child.

Q. The only notation in your book is for the purpose of keeping the time in order to charge for it.

A. That is all.

(Testimony of Thomas Dundon.)

Q. And the charge was for three hours that day.

A. For three hours work there. [270—223]

Q. During that three hours would you say that you were there continuously, in and about those rooms? A. Practically speaking, yes.

Q. I will ask you to state if you had occasion to speak to Dotocr Hall at any time you were around there for any purpose at all.

A. Why, as a general rule after I am through, I go around the building, if I have the steam turned off, go around the building and see if there are any leaks, or anything; and I think on my last trip, as I was going from room to room, I stepped to Doctor Hall's office—There are two rooms, and the door was closed to my recollection of the last time there—and I rapped at the door, and he said, "Come in." Of course, the exact words he said I don't remember exactly, but I understood he said, "Come in," and "Come in and out any time," something like that. As to be positive to that, I couldn't repeat what he said.

Q. How many times were you in Doctor Hall's office that day in connection with your work, have you any recollection? A. That is hard to say.

Q. I am talking now about what is known as the operating-room that he occupied at that time.

A. Oh I might have been in there half a dozen times, or a little less. I couldn't say exactly.

Q. At any time while you were working around there, was the door to Doctor Hall's office locked, that is, to the inner office?

(Testimony of Thomas Dundon.)

A. Not to my knowledge.

Q. Whenever you had occasion to go in there, describe to the jury whether you stopped and knocked or rapped before you went in, or went right in there, as the occasion required? [271—224]

A. As near as I can recollect the door was closed; naturally I would rap at the door, and I think he said; "Come in."

Q. On these different occasions? A. No.

Q. I mean the times prior to the one you have just described. A. I think the door was open.

Q. What I want to find out is: When you would go in or out there, was there any difficulty about your getting right into that inside office.

A. Not at any time.

Mr. MARQUAM.—You may cross-examine.

Mr. ROTH.—No questions.

Mr. MARQUAM.—That is our case. Defendant rests. Wait a minute.

(The following proceedings occur in the presence of, but not in the hearing of, the jury.)

Mr. STEVENS.—The defendant in this case having concluded his testimony and being about to announce that the case of the defendant is closed, now moves the Court to instruct the jury to find the defendant not guilty, upon the grounds of the insufficiency of the testimony in this case to sustain a verdict, and for the following reasons: For the reason that the witness Selma Lappi has shown herself to be incompetent to be a witness; and for the further reason that the witness Charlotte Geis has shown



(Testimony of Thomas Dundon.)

herself to be incompetent as a witness herein, and that the matters and things testified to by her are not connected with this case, that the occurrence which she related upon the stand are too remote in time, and otherwise wholly incompetent to show any design or intent or system of action upon the part of the defendant herein as to the matters and things alleged [272—225] in the indictment against the defendant; and for the further reason that the Court erred in admitting Mrs. John Lappi to testify in this case that the said Selma Lappi made to her a complaint of the offense charged in the indictment; and for the further reason, as above stated, that the testimony is insufficient to sustain a conviction.

The COURT.—The motion is denied.

Mr. STEVENS.—Defendant reserves an exception.

The COURT.—An exception may be allowed.

(The following occurred in the hearing of the Jury.)

Mr. STEVENS.—We rest our case.

Defendant rests.

**[Testimony of John Lappi for Plaintiff (in Rebuttal).]**

JOHN LAPPI, a witness for plaintiff, in rebuttal, after being duly sworn, testified as follows, to wit:

Direct Examination.

(By Mr. ROTH.)

Q. What is your name?      A. John Lappi.

Q. Do you know Selma Lappi?      A. I do.



(Testimony of John Lappi.)

Q. What relation do you sustain to her?

A. She is my daughter.

Q. Where did you live on the 24th day of September, 1914?

A. Well, I was wanting to—(interrupted).

Q. Where did you live at that time?

A. Right at the home, corner of 11th and Cushman.

Q. In the town of Fairbanks?      A. Yes.

Q. Did you leave the town of Fairbanks and go anywhere at that time?      A. Yes, I did. [273—226]

Q. Where did you go?

A. I was going down to Ruby.

Q. What time of day did you leave?

A. 9 o'clock in the morning.

Q. Prior to that time had you been with your daughter Selma to Doctor Hall's office?

A. I was there once, yes.

Q. Who went with you?

A. Selma, and Arthur was with me too..

Q. Who is Arthur?

A. That is my boy. No, Selma went alone there with me.

Q. Selma was there alone with you?      A. Yes.

Q. When was that?

A. Well, I couldn't remember the date exactly. I had come over here and stayed just about a week before I went down to Ruby. I had come out from Fairbanks Creek. I couldn't. say exactly the day—what date I went with her to Doctor Hall's office.

(Testimony of John Lappi.)

Q. Well, at the time you went with Selma to Doctor Hall's office, what was done by Doctor Hall to the neck, and what did Selma do?

A. Doctor Hall was dressing her neck, and just pulled that cloth off it—the sticking plaster, and dressed her neck.

Q. How did he take that off?

A. He kind of loosened it up, and Selma was standing on the operating-table.

Q. Was she standing or sitting on it?

A. She was sitting on it, and he kind of loosened it up a little, and all at once he kind of dragged it out. [274—227]

Q. What did Selma do?

A. She was getting a little nervous and started for crying a minute or two, and that was all there was to it.

Q. At that time did you see the doctor wash the rubber, or whatever it was, off that was left on the skin there when he took the dressing off?

A. Yes.

Q. What did he use to take that off?

A. I couldn't tell you what he was using.

Q. What did Selma do when he was using that wash to take it off of there, if anything?

A. She was kind of frightened on account of it smarting a little.

Q. Well, did she throw herself back onto the table and stiffen up?

A. She was just a little nervous, that was all. She was crying a little while, and I was over there

(Testimony of John Lappi.)

with her, and that was all over.

Q. When was the last time that you looked at the sore on the neck of Selma before you left on the morning of the 24th day of September?

A. I didn't look on the 24th day of September, but I looked just about a day before I went.

Q. Are you sure that you looked the day before you went?

A. Well, either the day before, or either the day before that.

Q. Either a day or two before you left?

A. Yes.

Q. Just tell the jury what was on that wound at the time you looked at it that time?

A. Nothing on except the handkerchief over the neck. [275—228]

Q. Was there any adhesive plaster or any dressing on the wound itself?      A. Not at that time.

Q. Are you positive of that?

A. I am positive of that.

Q. When did you first see Doctor Hall after you left Fairbanks on the 24th day of September, 1914?

A. That was the same evening when I came back to Fairbanks.

Q. When was that?

A. That was the 18th day of September, 1914.

Q. Where did you first see him?

A. In the Horseshoe corner.

Q. Just tell this jury what happened in the Horseshoe corner when you saw Doctor Hall at that time?

(Testimony of John Lappi.)

Mr. MARQUAM.—Any conversation?

Mr. ROTH.—No.

Mr. MARQUAM.—Then I object as incompetent, irrelevant and immaterial. (Objection sustained.)

Mr. ROTH.—You may cross-examine.

Cross-examination.

(By Mr. STEVENS.)

Q. Mr. Lappi, you are unable to state just exactly when it was with reference to the date when you last examined Selma's neck, are you not?

A. When I last examined Selma's neck was just the time when I was over there with Selma and Doctor Hall was telling me that she has got only two or three calls to make and she would be all right.

Q. When was that?

A. That must have been either the 20th or 21st of September [276—229] when I was there with Selma at that time.

Q. Do you remember when you paid Doctor Hall the money? A. Yes, I do.

Q. How much was that?

A. That was sixty dollars, three \$20 gold pieces.

Q. That was on account, was it, of his bill?

A. Yes.

Q. Did you take a receipt from him?

A. Yes, sir.

Q. Have you got it with you? A. No, sir.

Q. Do you know where it is?

A. I guess that is up to the house.

Q. Do you know how much his entire bill would be for that operation? A. About \$125.



(Testimony of John Lappi.)

Q. \$125 was the agreed price. And that \$60 was the only money that you ever paid him.

A. That was all.

Q. Was he ever paid any other money besides the \$60 by you or your wife or anybody that you know of? A. No, sir, not that I know of.

Q. Did you get a bill for the balance of \$65?

A. No, sir.

Q. Through the postoffice?

A. I never got the bill.

Q. You never got Doctor Hall's bill through the postoffice for the balance of \$65.

A. No, sir.

Q. Did your wife ever get the bill. [277—230]

A. I never asked her whether she got the bill or not.

Q. During your absence at Ruby, did your wife get your mail out of your box or out of the postoffice for you? A. We haven't got a mail-box.

Q. Did your wife get your mail during your absence from Fairbanks? A. Yes.

Q. Now, do you know when the payment of that \$60 was?

A. The payment was never set at all.

Q. What? A. We didn't set the time at all.

Q. Do you remember what date it was that you paid the \$60?

A. Well, I couldn't remember exactly the date, but that was around the 20th of September.

Q. Wasn't that the 9th of September that you paid the \$60?

(Testimony of John Lappi.)

A. I couldn't remember what date, but that was around that part of the month anyway, because I was around for about six days when I was come from Fairbanks Creek, and then I went down to Ruby. I was fixing the house over, fixing the cellar and one thing and another, and I wanted to hurry up and get down to Ruby before the freeze-up.

Q. You think the payment of the \$60 might have been made on the 9th of September?      A. No.

Q. Will you find that bill and the receipt, and find out the date that you paid that, and bring the receipt into court?

A. Well, I guess that must be up at the house somewheres.

Q. Can you find it?      A. I guess I can.

Q. I would like to have you find that for us.

The COURT.—Do you want that now? [278—231]

Mr. STEVENS.—Yes, I would like to have that now.

(Agreed that Mrs. Lappi go after receipt.)

Q. Now, Mr. Lappi, was it the day that you paid this \$60 to Doctor Hall that Doctor Hall said it wouldn't take very many more treatments before it would be all right or well?      A. Yes.

Q. That was the day.

A. That was the only day I was with Selma in the office.

Q. The only time you went with Selma.

A. Except before they took the second operation. I was there before that.

(Testimony of John Lappi.)

Q. That was in August?      A. Yes, sometime.

Q. The second operation was in August. The first operation was at St. Joseph's Hospital.

A. Yes, the same as the second one.

Q. And the second operation was in Doctor Hall's office?      A. No, it was at the hospital.

Q. You were there at the second operation when they gave her chloroform?

A. I was there with them then.

Q. Now, the only time you were in Doctor Hall's office—      A. Two times.

Q. And the last time you were in Doctor Hall's office with Selma was the day that you paid this \$60.

A. Yes.

Q. How long was it after that time that you paid the \$60, that you examined Selma's neck?

A. Well, I saw her neck before I went down to Ruby.

Q. You don't know how long it was before you went to Ruby.

A. A few days, that is, either two or three days.  
[279—232]

Q. Only two or three days before you went.

A. I believe the 23d day of September I was looking at it, and wondering how big a scar would be left there in her neck

Q. The 23d day would be just the day before you left.      A. Yes.

Q. But I understood you to say that it might have been two or three days before you left.

A. Well, just about a couple of days before, yes.

(Testimony of John Lappi.)

Q. It might have been three days.

A. Well, I couldn't tell you exactly.

Q. You say at that time she had a handkerchief around her neck.

A. Yes, a handkerchief around her neck.

Q. And, as I understand you, she didn't have any of this adhesive plaster.

A. No plaster at that time.

Q. Or tape, as they call it.

A. Not at that time, because she was just about well at that time when I went down to Ruby.

Q. Where were you when you examined her this time?     A. Right there at home.

Q. In the house?     A. Yes.

Q. Anybody else present?

A. Me and Selma and the boy and my wife.

Q. Did you take the handkerchief off?

A. Just pulled the handkerchief down.

Q. And you didn't untie the handkerchief.

A. No.

[280—233]

Q. Then you went away on the morning of the 24th.     A. On the 24th of September.

Q. About what time?

A. 9 o'clock in the morning.

Q. Did you leave in a small boat?     A. Yes.

Q. Is Mrs. Lappi a nervous woman, would you say?

A. Well, I don't think I can call her a very nervous woman.

Q. Is she inclined to be excitable?



(Testimony of John Lappi.)

A. No, I don't hardly think so, no.

Q. Has the little girl been inclined to be nervous at times?      A. No.

Q. This girl. She is not inclined to be nervous?

A. No, she is not what you would call nervous. No.

Q. Particularly during the time that she has had this trouble. Wouldn't that make her fretful and nervous, or did it?

A. Just the time when he pulled that plaster out, it hurt her neck, and any child would get hurt that way, sure.

Q. The fact that she had been troubled with that sore neck for a long time—(interrupted).

A. No, that lump has been there quite a while, but that never troubled her until last summer.

Q. Didn't it pain her a good deal?

A. No, not until last summer.

Q. Wasn't it inclined to reduce her flesh? Didn't she kind of run down by reason of having that?

A. Yes, a little bit.

Q. Wouldn't that naturally make her fretful and nervous, more so than she would have been if nothing was the matter with her?

A. A little nervous as long as a person doesn't feel good. [281—234]

Q. You say your wife, Mrs. Lappi, is not a fretful woman at all, and not excitable.      A. No.

Mr. STEVENS.—You may take the witness.

Mr. ROTH.—That is all.

[Testimony of **Mrs. A. J. Nordale**, for Plaintiff (in Rebuttal).]

MRS. A. J. NORDALE, a witness for plaintiff, in rebuttal, after being duly sworn, testified as follows:

Direct Examination.

(By Mr. ROTH.)

Q. What is your name?      A. Mrs. A. J. Nordale.

Q. Are you the wife of A. J. Nordale?

A. Yes, sir.

Q. Do you know Mrs. John Lappi?

A. Yes, sir.

Q. Do you know here daughter, Selma Lappi?

A. Yes, sir.

Q. Do you remember last fall the fact of John Lappi leaving Fairbanks for Ruby?      A. Yes, sir.

Q. Before he left for Ruby did you make an examination of the wound on Selma's neck?

A. Yes.

Q. How long before he left did you make this examination?

A. About a week or over. I do not remember.

Q. Did you make more than one examination?

A. No.

Q. Mrs. Nordale. Tell this jury what kind of dressing was on that wound at the time you examined it? [282—235]

A. It was a silk handkerchief. It was wrapped around her throat, something rapped around her throat.

(Testimony of Mrs. A. J. Nordale.)

Q. Was there any adhesive plaster or any dressing of any kind on the wound itself?     A. No, sir.

Q. Are you positive of that?

A. Yes, for if it had been, I wouldn't have noticed the wound. For I said: "Selma will have a very ugly scar."

Mr. ROTH.—You may cross-examine.

Cross-examination.

(By Mr. MARQUAM.)

Q. Where did this examination take place?

A. Right at my home.

Q. Who was present?     A. Mrs. Lappi.

Q. What was the occasion of making the examination?

A. For I always took an interest in Selma. I had her with me for two weeks previous, and I took very much interest in Selma.

Q. She stopped with you for sometime while Mrs. Lappi was out on the creeks.     A. Yes, sir.

Q. And while she was taking these treatments from Doctor Hall.

A. It was before the big operation that she stayed with me. She had two operations.

Q. That was during the period between the time the neck was lanced,—     A. Yes.

Q. —and the time that she was given the anesthetic and the main operation took place.

A. Yes, sir. [283—236]

Q. That she was stopping with you.     A. Yes.

Q. And Mrs. Lappi was stopping out on the creek during that time.     A. Yes, sir.

(Testimony of Mrs. A. J. Nordale.)

Q. During that period of time did you go down to the office with her, or your little daughter?

A. No, sir, my daughter did.

Q. And there were no bandages at the time she was staying in your house, there was no tape on it, except just a wrapping of gauze around it.

A. The doctor treated her then, and it had a bandage and gauze and things around.

Q. Describe to the jury what was on there at that time when she was stopping with you at your house.

A. I don't know exactly, because it was always around it, always bandaged.

Q. What kind of bandages were they?

A. Regular bandage, a surgeons bandage.

Q. There are different kinds of bandages. Can you describe them more clearly?

A. Just a surgeon's bandage.

Q. Did it stay on itself, or was it tied on?

A. It was pinned on with safety pins.

Q. After that the main operation took place.

A. Yes, sir.

Q. And after the main operation took place, did Selma stay up at your house at any time?

A. No, sir. She came there frequently to see me.

[284—237]

Q. What kind of bandages did she have on on these different occasions? A. The same as before.

Q. Just the common ordinary surgeon's bandage.

A. Yes.

Q. And you can't describe them any more accurately. A. No.



(Testimony of Mrs. A. J. Nordale.)

Q. Were they white?      A. White.

Q. And soft? Are they something like cheese-cloth?      A. Yes.

Q. And you wrap them around, and in order to keep them on you pin them on and tie them on?

A. Yes.

Q. And that is the only kind of bandages she ever had on.

A. No. When she was at my house the last time before Mr. Lappi left, she had a silk handkerchief, or some cloth, around her neck.

Q. Outside of the silk handkerchief, or some cloth around her neck, none of the times she was at your house did you see any bandages on except the ones you have described.      A. That is right.

Q. She was there frequently.      A. Yes.

Q. You are a friend of the family, and she visited back and forth.      A. Yes.

Q. How often during that time do you think you would see her?      A. I couldn't say. [285—238]

Q. Every day or two?      A. No.

Q. Every few days?      A. Yes, sir.

Q. At least once or more a week, would you say?

A. Yes, sir, about.

Mr. MARQUAM.—That is all.

Mr. ROTH.—That is all.

**[Testimony of Mrs. John Lappi, for Plaintiff (in Rebuttal).]**

MRS. JOHN LAPPI, witness for plaintiff, in rebuttal, heretofore sworn, testified as follows, to wit:

**Direct Examination.**

(By Mr. ROTH.)

Q. Mrs. Lappi, on the 24th day of September, the last day that Selma went to Doctor Hall's office for a treatment, what kind of bandage did she have on her neck?

A. She had a man's silk handkerchief, which she is wearing right now, and every day.

Q. What bandage, if any, was on the wound?

Mr. MARQUAM.—We object—

A. Nothing.

Mr. MARQUAM.—This is not rebuttal, because it was gone into with this witness on direct examination.

The COURT.—She may answer the question.

(Mr. ROTH.)

Q. For how long a time before the 24th day of September was no bandage or dressing of any kind such as adhesive plaster or gauze or cotton, anything of that kind, put on that wound? (Defendant objects as leading. Objection sustained.)

Q. Mrs. Lappi. State if at any time prior to the 24th day of September in the dressing of this wound, gauze or adhesive [286—239] plaster had been left off the dressing of the wound of Selma Lappi?

(Defendant objects as leading. Objection sustained.)

(Testimony of Mrs. John Lappi.)

Q. State the condition of the dressing of this wound by Doctor Hall from the 24th of September back.

A. Well, there was nothing on it except a silk handkerchief for about two weeks or over with just vaseline on it. He told me to put just the vaseline on it, and he said he had put powder on it at the office.

Q. Did you tell Mrs. Hall when she came to your house on Monday following the 24th day of September, 1914, that Selma at first told you that nothing had happened in Doctor Hall's?

A. No, Mr. Roth. Without a question—(interrupted).

Q. That answers the question. Now, did you tell Mrs. Hall at that time that Doctor Hall wouldn't get another cent? A. I did not.

Q. Mrs. Lappi. Did you receive a bill from the postoffice from Doctor Hall for the balance of the fee of \$65 that was due him?

A. I did not, Mr. Roth.

Q. Did you receive any communication or any envelope from Doctor Hall addressed to Mr. John Lappi through the postoffice? A. I did not.

Mr. ROTH.—You may cross-examine.

Cross-examination.

(By Mr. MARQUAM.)

Q. Did Mr. Lappi, while he was at Ruby, receive mail from here, sent from the postoffice here, or did all his mail remain here?

A. Well, he didn't get any mail. He didn't even

(Testimony of Mrs. John Lappi.)

get a letter from his mother. [287—240]

Q. What I am getting at: Do you know whether he left directions with the postoffice here when he went below, or with anybody else, to forward his mail to Ruby?

A. It was with me that he left the orders, and there was only bills from the N. C. Company and the light bill, and I paid them, and kept them.

Q. And all mail that would be addressed to him and deposited in the postoffice here you had made arrangements to get. A. I didn't catch that.

Q. I understood you to say that all mail that would be deposited in the postoffice here addressed to John Lappi you were to receive.

A. I were to receive. And if there was any sent to him I would have seen it, but there was none.

Q. And you at no time since the 24th of September have received, either in your own name or in John Lappi's name, a bill for the balance of the fee.

A. I did not.

Q. How much was that fee?

A. It was to be one hundred dollars.

Q. It was not one hundred and twenty-five dollars? A. No.

Q. If John Lappi says it was a hundred and twenty-five dollars, he is mistaken.

A. No, it was not, because when Mr. Lappi went to pay that bill Doctor Hall wanted \$125. I didn't say a word about that.

Q. If he said that it was to be \$125, he was mistaken.



(Testimony of Mrs. John Lappi.)

A. I don't know, because Doctor Hall may have told him.

Q. I understood you to say it was to be \$100.

A. Doctor Hall told me it was to be \$100.

Mr. MARQUAM.—That is all. [288—241]

**[Testimony of Selma Lappi, for Plaintiff (in Rebuttal).]**

SELMA LAPPI, witness for plaintiff, in rebuttal, heretofore sworn, testified as follows, to wit:

Direct Examination.

(By Mr. ROTH.)

Q. Selma, the last time you went back to Doctor Hall's what kind of dressing was there on your neck?

A. I don't think there was no dressing on.

Q. What was on the neck? How was it dressed? How was it fixed up?

A. I think there was a handkerchief only around it.

Q. Do you know how long before that your neck had been dressed? I withdraw that question. Do you remember how long before the last time it was that you went up to Doctor Hall's office—how long before that it was that you went up there before?

A. I don't remember.

Q. The last time that you went there did Doctor Hall rub your stomach on the outside of your clothes? A. No.

Q. Did he put his hand inside of your panties and rub your stomach?

A. Yes. Not my stomach, but just around here (showing).

(Testimony of Selma Lappi.)

Q. Did you tell him at that time on that last day that you were there that your stomach hurt you?

A. I don't remember.

Mr. ROTH.—That is all.

Mr. MARQUAM.—That is all.

(Trial continued until Thursday, April 22, 1915, at 10 A. M., and the jury withdraw in custody of the bailiffs, after receiving the usual admonition.) [289—242]

Thursday, April 22, 1915. 10 A. M.

Jury and defendant in court, and trial resumed.

**[Testimony of John Lappi, for Plaintiff (Recalled in Rebuttal).]**

JOHN LAPPI, witness for plaintiff, recalled in rebuttal, and heretofore sworn, testified as follows:

Direct Examination.

(By Mr. ROTH.)

Q. Did you produce that receipt that was called for? A. Yes.

Q. Have you it?

A. I have got it with me. (Produces same.) I am mistaken in the date. I made a quick trip in town here, and it was the 9th of September instead of the 20th.

Mr. MARQUAM.—We object to any explanation. (Mr. ROTH.)

Q. Mr. Lappi, can you now since you saw this receipt state when you received the receipt, when you made the payment of that money?

A. Yes. I remember that I paid it on the 9th of September.

(Testimony of John Lappi.)

Q. How did you come to make the statement before that it was within a week of the 24th of September?

(Defendant objects; sustained.)

Mr. ROTH.—Well, here is the receipt.

Mr. MARQUAM.—We wanted to correct the date, that is all, and now we have it.

Mr. ROTH.—That is all.

**[Testimony of J. A. Sutherland, for Plaintiff (in Rebuttal).]**

J. A. SUTHERLAND, a witness for plaintiff in rebuttal, after being duly sworn, testified as follows, to wit:

Direct Examination.

(By Mr. ROTH.)

Q. What is your name?      A. J. A. Sutherland.

[290—243]

Q. What is your profession?

A. Physician and surgeon.

Q. Are you acquainted with Charlotte Geis?

A. Yes.

Q. Did you make an examination of a scar upon the leg of Charlotte Geis?      A. I did last night.

Q. Where did you find that scar?

A. (Holding paper in his hand.) The scar was on the right leg, about six inches above the center of the knee-cap on the inner side of the leg, and about eight and a quarter inches from this spine of this bone here, the anterior spine of—the anterior superior spine of the ilium, and about five inches and a half approximately from the crotch. Do you want



(Testimony of J. A. Sutherland.)

a description of the scar?

Q. Yes, describe the scar.

A. The scar was about an inch and a half in length and nearly a quarter of an inch wide at its widest point, a bare fraction under a quarter of an inch. The front part of the scar, or the anterior part—*anterior* means front and posterior behind—the anterior part of the scar was approximately three-quarters of an inch above the posterior part.

Q. Three-quarters of an inch or three-eighths of an inch?

A. Three-eighths of an inch I should have said. Running from before backward and on a little angle, the front part of the scar being a little higher than the back part.

Q. Describe the scar, which way it run on the leg, and where it was on the leg.

A. The scar was a little to the inner side of the leg about this portion (indicating) and run as I say—it was [291—244] located six inches above the center of the knee-cap. When the leg was extended and when the leg was straight the child standing, the front part of the scar would be three-eighths of an inch higher than the other end of the scar was. It was not across the leg, it was on the inner side of the leg.

Q. You say it was not across the leg. Was it up and down the leg?

A. No. It ran more or less in a horizontal position, but it was not across the front of the leg, as you would say, but on the inner side.



(Testimony of J. A. Sutherland.)

Q. With reference to the front of the leg, between the line of the front of the leg and the back of the leg, where was the scar?

A. The scar was a little to the inner side of the center line. It was to the inner side of the center line in front.

Q. What kind of a scar was that?

A. In what way?

Q. With reference to it being a clean cut or a ragged cut?

A. I should say that the scar was not made with a sharp instrument. The edges of it, especially the lower edge, is a little jagged, a little irregular in form, and the upper edge is similar, irregular, too. It is very hard when you have a scar that is old, to tell exactly how it has been made. The tissues contract and smooth out.

Mr. ROTH.—You may cross-examine.

Cross-examination.

(By Mr. MARQUAM.)

Q. Doctor, please state to the jury what would be in your opinion, the difference in the appearance of the scar as you saw it and what it would have been in the neighborhood [292—245] of two years and a half ago, assuming that the wound which produced this scar was made about that time. In other words of the scar, taking into consideration the age of the what would be the effect of time upon the appearance child and the health of the child?

A. The scar tissues would be much lighter in color than at the time it was made.

(Testimony of J. A. Sutherland.)

Q. What is the color of the scar now, as you observed it?

A. White, practically. Or, I mean a light color. It is flesh color, a little lighter than the ordinary flesh color.

Q. What would have been its color and appearance shortly after it had healed, or about the time of its healing or shortly after?

A. Red, or purplish red. Dark, a dusky red.

Q. Isn't it a fact, doctor, that wounds which are as you term, jagged in appearance when they are first made by reason of not being a clean cut, but made with some blunt instrument or something of that kind, that has irregular cuts in it, in a child of that age and health, after the lapse of time, isn't it true that the little radiations from that wound in the way of scars will often times disappear where they are not deep but run out to nothing? You know what I mean?

A. As long as it is through the true skin?

Q. Yes.

A. All scar tissue has a tendency to fade with time.

Q. Isn't it true that this wound has the appearance of being deep, and the fact that the scar now has the width that you have described, some quarter of an inch, shows [293—246] that it was a jagged cut, or if it was a clean cut with a sharp instrument that scar wouldn't show in the way that it shows now?

A. Not necessarily. For the simple reason that it depends a great deal on the treatment. If the scar had been brought together, drawn together closely, as a doctor would bind a clean cut wound it would hardly be that wide.

(Testimony of J. A. Sutherland.)

Q. If it was taken care of by a trained nurse, even though a doctor hadn't taken care of it, they know how to take care of a wound of that kind?

A. They might take care of it in one way, but not in another. They might take antiseptic care and not pull the edges close together, or they might attempt to pull it together by adhesive plaster and the plaster slipped, and it separated. And in that way it would produce a wider scar.

Q. Point on your own leg, as near as you can, where that scar would be.

A. It would be about in that neighborhood (indicating.) I can't judge on myself the same way as I could on another.

Q. How long was that wound primarily?

A. Primarily, I don't know.

Q. How long is that wound now?

A. One inch and a half.

(Counsel asks witness to indicate with a pencil where the wound was, and witness indicates on Mr. Marquam's leg.)

Q. The anterior part being three-eighths of an inch higher than the back part? A. Yes.

Q. And the wound now being an inch and a half long? A. Yes, sir.

Q. What would you say in regard to the size of the wound, [294—247] taking into consideration its length now, that is, the scar now, how much if any would it shrink, or how much smaller would it be now than when the cut was first made?

A. I can't say absolutely, but there is always contraction of scar tissue, and it might be half an inch



(Testimony of J. A. Sutherland.)

and it might be more,—three-quarters of an inch. It is pretty hard to answer that question.

Q. If it is an inch and a half now, would it be unreasonable to suppose from the standpoint of a surgeon, that at the time that wound was made, or about that time after it healed up, that it was two inches long? A. No, I don't think so.

Q. That would be a reasonable contraction.

A. Yes, I think so.

Mr. MARQUAM.—That is all.

Mr. ROTH.—That is all.

Mr. MARQUAM.—I would like to call the doctor and make him our witness to testify as to the method of removing this rubber adhesive tape. It is not cross-examination. It is out of order, but the doctor is here now, and I ask permission of the Court to ask that question.

The COURT.—You may ask the question.

[**Testimony of J. A. Sutherland, for Defendant (in Rebuttal).**]

J. A. SUTHERLAND, called as a witness for defendant, in rebuttal, heretofore sworn, testified as follows:

Direct Examination.

(By Mr. MARQUAM.)

Q. I ask you what the practice is, or what the proper practice is of physicians in removing the adhesive tape and the remains, the rubber residue from adhesive used in [295—248] dressing wounds. How do you remove it?

A. I usually remove it with either ether or alcohol.



(Testimony of J. A. Sutherland.)

Q. What is the general practice of physicians or surgeons, could you say?

A. You mean as to all the medicines that are used?

Q. No. What is the common ordinary way of removing this rubber adhesive that adheres to a wound? For instance, if the wound has been dressed, and it is necessary to bind the dressing on with adhesive tape, or at least that has been done, now, on removing that, or after the tape has been removed, to remove the remaining rubber that sticks to the skin in the vicinity of the wound.

A. I use ether.

Q. Would you consider it a proper practice for a physician to use chloroform for that purpose?

A. I didn't, until Sunday night.

Q. Have you tried it?      A. I tried it.

Q. How does it work?

A. It works all right. It is a better solvent than ether is. My reason for not using it heretofore was the fear of burning with the chloroform. If a person happened to get a drop of chloroform through their clothes, it is quite irritating to the skin, and for that reason I had not used chloroform for removing a plaster. On Sunday night I put a plaster on my own hand and removed it with chloroform, and removed it without irritation.

Q. You would consider it now a proper practice for a physician to do that.      A. Yes, sir. [296—249]

Q. What objection is there in the case I have called your attention to to the use of alcohol, if any?

A. It is similar, but slower in its solvent action on the adhesive plaster.

(Testimony of J. A. Sutherland.)

Mr. MARQUAM.—That is all.

Cross-examination.

(By Mr. ROTH.)

Q. But the alcohol does the work if you take a little more time?

A. It takes more time, and you have to rub it a little to get it off as a usual thing.

Q. You have used it successfully?

A. Yes, sir. I have used it frequently.

Q. Would you consider it proper practice to use chloroform where the fumes of the chloroform nauseated the patient and was particularly offensive to the patient, and even going to the extent of making the patient hysterical? Would you in that case consider the use of chloroform, as against the use of alcohol as good practice?

A. If my patient objected to having the chloroform used, I would certainly use some other method in removing it.

Q. It would be better to get it removed by some other method, even if it did take a little more time, wouldn't it? A. Yes.

Mr. ROTH.—That is all.

Redirect Examination.

(By Mr. MARQUAM.)

Q. Ether, as a matter of fact, has the same effect as far as inhaling it is concerned, as chloroform, that is, practically the same?

A. As far as its anesthetic qualities are concerned, only [297—250] it is slower in its action than

(Testimony of J. A. Sutherland.)

chloroform, but it will anesthetise the patient in the same way.

Q. I am talking about the ordinary effect upon the patient as far as putting them to sleep is concerned, and the smell is just as pungent?

A. It is more offensive to some, and chloroform is more offensive to others. It depends a good deal upon what the patient has been in the habit of taking, or has had to take.

Q. Suppose you had a wound which was deep seated, a deep cut, and very much inflamed and tender, you would avoid, if possible, any massage or manipulation or rubbing in that vicinity if you could.

A. I would avoid irritating the part as much as possible.

Q. If that wound had been dressed and adhesive tape placed over the dressing or in the immediate vicinity of that wound, and this rubber stuck upon the skin in the immediate vicinity of the wound, you would want to remove that with just as little friction and just as little manipulation as possible?

A. You mean the wound on the leg?

Q. No, assuming a wound on the neck, that is still sore and tender. You would want to remove the rubber from around that with as little manipulation as possible?

A. As gently as possible.

Mr. MARQUAM.—That is all.

Recross-examination.

(By Mr. ROTH.)

Q. You don't mean to say that you could not remove that gently with something else than chloroform or even ether?



(Testimony of J. A. Sutherland.)

A. I would remove it—as a usual thing—the straps, without either chloroform or ether. Just pull them off. [298—251]

Q. But after the straps are pulled off, and you want to remove the adhesive substance that sticks to the skin you could remove that generally without using either chloroform or ether, couldn't you?

A. Yes, you could remove it with alcohol.

Q. And you could remove it gently with alcohol, couldn't you, without disturbing the wound?

A. Yes. But as I say, you must take a longer time and a little more rubbing to get it off.

Q. But if you would saturate it with alcohol, for instance, put a little alcohol on there with cotton, soak it there a little while with alcohol, you wouldn't have any difficulty in getting it off, without rubbing that skin and without doing any injury, by taking a little time?

A. Yes, certainly, you can take it off, but it takes longer.

Mr. ROTH.—That is all.

Mr. MARQUAM.—That is all.

**[Testimony of Mrs. Stacia Rickert, for Plaintiff (in Rebuttal).]**

Mrs. STACIA RICKERT, a witness for plaintiff, in rebuttal, after being duly sworn, testified as follows:

Direct Examination.

(By Mr. ROTH.)

Q. What is your name?      A. Stacia Rickert.

Q. You are the wife of Paul Rickert?      A. I am.



(Testimony of Mrs. Stacia Rickert.)

Q. Where do you reside?

A. On the outskirts of the town.

Q. On what street? A. Cushman. [299—252]

Q. Do you know Mrs. John Lappi? A. I do.

Q. And do you know Selma Lappi? A. I do.

Q. How close do you reside to where Mrs. Lappi resides?

A. I should judge about half a block, or a block.

Q. They are neighbors of yours? A. Yes, sir.

Q. Did you examine the scar on Selma Lappi's neck during the month of September, 1914?

A. I did.

Q. On what date?

A. On the 14th of September.

Q. Where was she when you made the examination? A. At Moyer's store.

Q. Just tell the jury how that scar was dressed, or the neck was dressed.

A. As near as I can remember, there was no dressing on it, only a white handkerchief and a little vaseline on it. I passed the remark, "Didn't Dr. Hall cut the other little tumor out," and she said, "No, he just cut this one out." I didn't see anything on there that I remember.

Q. Did you see the scar plainly? A. I did.

Q. And you examined the scar? A. Yes.

Mr. ROTH.—Cross-examine.

Cross-examination.

(By Mr. MARQUAM.)

Q. How do you fix the date? [300—253]

A. I bought a coat for the little Franklin girl who

(Testimony of Mrs. Stacia Rickert.)

was staying with me at that time and I have it down on my books.

Q. You fix that as the time you saw the little Lappi girl?

A. Yes. That was the first time that I saw her neck, was at Moyer's store.

Q. I take it from your manner of telling this, that you are not very sure so far as your remembering that there was no dressing on it?

A. I don't know of any dressing. All I remember of seeing was the handkerchief there.

Q. There was nothing at that time to call or direct your attention particularly as to how the wound was dressed?

A. The only thing was that I was surprised that it had healed up so rapidly.

Q. Who was with the child at that time?

A. Mrs. Lappi was.

Q. How did you examine the neck, or how did you examine the wound, what did you do? Tell us what you did when you looked at it.

A. I just went over to her, and pulled her handkerchief down and looked at the scar where the doctor operated on her.

Q. When was your attention first directed or called to the question of whether or not there were any bandages on that wound? A. When was the first?

Q. Yes. When were you first asked about this?

A. This morning. [301—254]

Q. You haven't have had any occasion to think about it from that day to this? A. No.

Q. The only think you were interested in at that

(Testimony of Mrs. Stacia Rickert.)

time was to see how the wound was healing.

A. No. I was interested, because I believe I was the first one that asked Mrs. Lappi to go to Doctor Hall and have the operation performed.

Q. Answer the question. The only thing that you were interested in at the time that you looked at this scar was to see how it was healing? That is what you were looking for?

A. Yes, to see how it was getting along.

Q. That is all the purpose you had in looking at that wound? A. Yes.

Q. Isn't it entirely possible that in looking at that wound that there could have been a dressing on there, a loose dressing, with something in the way of a little gauze there, that you could just pull aside and see the wound? A. No. There was no gauze.

Q. At that time that you took the handkerchief so that you could look under it?

A. There was no gauze, absolutely none.

Q. There was nothing but the naked handkerchief?

A. With a little vaseline on it.

Q. Nothing but the naked handkerchief?

A. That is all.

Q. Did you talk about it at the time, and remark upon there being nothing on it?

A. No. I simply said; "My, that has healed up wonderfully fast." [302—255]

Q. Was it healed up?

A. Yes, it was healing up fast.

Q. What did you see there?

A. I saw a scar with a little scab on it.

(Testimony of Mrs. Stacia Rickert.)

Q. How large was the scar?

A. I should judge about an inch or probably a little longer.

Q. How wide?      A. It was not very wide.

Q. How deep was that?

A. I couldn't tell you how deep it was.

Q. What did it look like, describe it in other respects?

A. It looked to me like it was a cut, had been cut and healed.

Q. Just in one place?      A. Yes.

Q. Had you seen it before?

A. I had seen it before she was operated on.

Q. Had you ever seen it since, except this one time?

A. Yes, I had seen it a number of times.

Q. Who did you first tell about this this morning?

A. I told Mrs. Lappi.

Q. What did Mrs. Lappi say when you asked her about it?

A. She asked me if I remembered how Selma's neck looked at the time I looked at it in Moyer's store.

Q. Did she tell you during this conversation what her testimony had been or what she had been trying to prove?      A. No.

Q. Didn't she tell you what she testified to or what Mr. Lappi testified to, or any other witnesses?

A. No. She asked me and I told her and she said, "That is all I want to know," and run out of the house.

Q. You had no occasion to remember this or to have it called to your attention since last September? [303—256]      A. No.



(Testimony of Mrs. Stacia Rickert.)

Q. The only thing that you were interested in then was to see that the wound was healing nicely?

A. Yes.

Q. And you thought back when she asked you about it, and based your opinion upon your clear recollection of what you saw then and not on anything that you have heard since?

A. No, it didn't. I wasn't. I didn't care about it any way, about anything at all. All I—(interrupted.)

Q. Pardon me. Are you in the habit of dealing at Moyer's? A. I have dealt there a few times.

Q. How do you fix this time you were there at the time you purchased your coat? Might not it have been some other time later?

A. No. That is the time. Because he had some hoods that came in, fascinators, we were trying them on, and little Selma Lappi wanted to try one of those hoods on, and that was how my attention was called to pulling her handkerchief down. He was fitting the hood on her, and I said, "Let me see your neck, Selma," and that was the same day—(interrupted).

Q. During that vicinity of time, or in that neighborhood of time, say within a week before or a week afterward or ten days afterward, you never had occasion to look at that again?

A. Yes, I was in her house.

Q. When?

A. About a week afterwards, and I observed her neck.

Q. I am talking about your examining the neck itself.

(Testimony of Mrs. Stacia Rickert.)

A. The neck itself was getting along splendid. Nice.

Q. Do you know just what date that was?

A. No, I don't know just what date that was. I have no occasion to know it, but I do feel that it was somewhere [304—257] along, a few days later or a week later, or something like that.

Q. It might have been two weeks later?

A. In fact I probably saw it two weeks later.

Mr. MARQUAM.—That is all.

Mr. ROTH.—That is all. The prosecution rests.  
Plaintiff rests.

(The Court takes a fifteen-minute recess, the jury in charge of the bailiffs, and after recess, the jury and the defendant being present, trial is resumed.)

**[Testimony of M. F. Hall, for Defendant (in Rebuttal).]**

M. F. HALL, defendant, called as a witness for defendant in rebuttal, heretofore sworn, testified:

**Direct Examination.**

(By Mr. MARQUAM.)

Q. I wish you would describe the dressing or whatever you did in treating this wound upon Selma Lappi's neck at the last time, or about the last time, the last couple of times, that you dressed it. Describe the size of the wound and the size of the dressing or tape that you used in making the dressing.

(Plaintiff objects as not rebuttal. Objection overruled.)

Q. Doctor, just state to start with, the size of that

(Testimony of M. F. Hall.)

wound if we may so call it, upon the neck of Selma Lappi that caused the scar that remains there or the wound that resulted from the operation.

A. The original, the first incision which I made in it was about half an inch long.

Q. I am talking about after the second operation.

A. After the second operation the incision was about an inch and three quarters or a little bit longer. At that time the distension was considerable as the skin was stretched by this growth, and as the thing healed up, and it [305—258] collapsed and the skin shrunk, and the wound healed the wound became somewhat shorter than that.

Q. Say, for instance, in the neighborhood of the 24th day of September, about what would be the size of the wound?

A. The size of the wound or the scar?

Q. When I refer to the wound I mean the scar.

A. The scar itself I should judge was about an inch or an inch and a quarter, maybe an inch and a half. I don't remember exactly.

Q. Describe to the jury as that wound healed where it would heal first

A. From the edges. It filled up from the bottom before any skin was allowed to grow across it, and it would heal from the edges. If the scar was a long one and gaping when it filled up from the bottom it would heal from both ends and the sides all towards the center. Sometimes one end of it would heal faster than another, as if there was infection or on account of the difference in circulation, there



(Testimony of M. F. Hall.)

the tissues would grow the least, and as it healed up the last point to be healed would be in the place of poorest circulation. And this wound as it healed it left—at the very last, in the lower part of the scar, was a place which healed last, and as I said before, the dressing on the 21st was a spot there about as large as the head of a pin, possibly a trifle larger than that. On that, at the time was the last dressing that I put on the time before that. The dressing had slipped, was on there but had slipped down and there was a dry scab, as the result of the drying of the exudations, and the thing which I was trying to prevent all the time was to try and prevent any scab from forming there, and keep a moist condition. At that time there was that little dry scab formed there, [306—259] and I lifted that up and removed it, and found pus underneath, and put on fresh dressings. These dressings were very small.

Q. What were the size of the dressings that you first used? Describe those to the jury. When you first put them on, what was the size of the dressings and how were they fastened on.

A. The first dressings after I began to use the adhesive, I put on first some gauze and a little cotton over that, and then usually a piece of oiled silk over that to keep the adhesive from sticking to any of those things, and it was put on by long strips which ran from the back of the neck that held that all on, including the bandages and all that; and it was necessary to put on the last dressings for absorbent purposes, but just enough dressing on there



(Testimony of M. F. Hall.)

to allow the wound to heal and to keep anything else from coming in contact with it. As the wound grew smaller, those dressings were smaller and cut in circular shape, and a piece of adhesive was cut round, in a circle, and the dressings slipped under one side of it up to the center, and when it was put on it was lapped over to the center and made a kind of conical shape, and the dressing stood up in a kind of conical shape.

Q. Tell the jury what the size of the last pieces of adhesive tape that you put upon the wound were.

A. It was a circular piece with a little bit of gauze about—well, less than—about as much gauze—it would be about the size—it was cut off the fringy part of the gauze so as to make the absorbent part and placed over the wound. It was about the size—the only thing I can think of to give you any idea of it after it was compressed together would be about the size of a number six [307—260] shot that you use in a shotgun. Just a little piece of the gauze. The gauze was cut from the edges so there was a slight thread, just slight threads of gauze. Those were laid over this wound to protect it and then a tiny slight piece of cotton just a slight shred and over that I put a piece of adhesive.

Q. How large was the piece of adhesive that you put over?

A. The piece of adhesive was I think about three-quarters of an inch in one direction and about half an inch in the other.

(Testimony of M. F. Hall.)

Q. After this was put on, did it cover the whole scar?

A. No. It covered this little spot that was left. The rest of it had healed over.

Q. A person looking at the wound when that last dressing was on, would it or would it not be possible, to see most of the scar upon the neck of the child?

A. They could have seen the larger part of the scar without seeing that part.

Q. Why was it necessary in treating this patient to keep a dressing of that kind that you have described on until it had thoroughly healed up?

A. To keep anything from coming in contact with any raw surface, in order to prevent friction, setting up inflammation by friction, or to prevent infection.

Q. As I understand you, at the last when it healed up the sore itself in which there might be danger of infection was about the size of a pin point. Just that little tiny spot left. The child wouldn't have been coming to the office to see me, and I wouldn't have had her come if there was not something to heal up.

Q. Which portion of this cut, that is, which part of the cut was the last to heal? [308—261]

A. It was on the lower part of the cut. That is where the circulation was poorest.

Mr. MARQUAM.—That is all.

Mr. ROTH.—That is all.

Mr. MARQUAM.—That is our case.

Testimony closed.

(Testimony of M. F. Hall.)

(The following occurred in the presence of, but not in the hearing of the jury, in open court.)

Mr. STEVENS.—The defendant now moves the Court to instruct the jury to find a verdict of not guilty for the reason that the testimony offered upon the part of the prosecution, and received by the Court, is wholly insufficient to constitute the offense in this case, for the reason that the testimony of the witness Selma Lappi has shown herself incompetent to be a witness; and for the further reason that the witness Charlotte Geis has shown herself to be incompetent as a witness herein, and that the matters and things testified to by her are not connected with this case, that the occurrences which she related upon the stand are too remote in time and otherwise wholly incompetent to show any design or intent or system of action upon the part of the defendant herein as to the matter and things alleged in the indictment against the defendant; and for the further reason that the Court erred in admitting Mrs. John Lappi to testify in this case that the said Selma Lappi made to her a complaint of the offense charged in the indictment; and for the further reason, as above stated, that the testimony is

Mr. STEVENS.—We except to the ruling of the insufficient to sustain a conviction. [309—262]

The COURT.—Which motion is denied.  
Court.

The COURT.—Exception allowed.

(The following proceedings were in the presence and hearing of the jury.) [310—263]



[**Certificate of Court Reporter to Transcript of  
Testimony and Proceedings.**]

United States of America,  
Territory of Alaska,—ss.

I, E. T. Wolcott, official court reporter of the District Court of the Territory of Alaska for the Fourth Judicial Division, do hereby certify; That in the month of April, 1915, I took down in shorthand the testimony given and proceedings had at the trial of the case of the United States of America, plaintiff, vs. M. F. Hall, defendant, numbered 689 in the records of the clerk of said court; and that the typewritten pages hereunto annexed and numbered from 1 to 263 both inclusive comprise a full, true and correct statement of all the testimony given and proceedings had in the trial of said case from the beginning of the introduction of the testimony up to and including the closing of the testimony; that it also comprises a summary of certain proceedings had before the introduction of any testimony in said cause, but does not contain any of the proceedings had in empaneling the jury.

Dated May 31, 1915.

E. T. WOLCOTT,  
Official Court Reporter, District Court Territory of  
Alaska, Fourth Judicial Division. [311]

[Caption and Title.]

**Instructions.**

**GENTLEMEN OF THE JURY:**

The defendant M. F. Hall is indicted by the Grand



Jury, and is now on trial before you for the crime of assault. The indictment charges that the said M. F. Hall, on the 24th day of September, A. D. 1914, at the town of Fairbanks, in the Fairbanks Precinct, Fourth Judicial Division, Territory of Alaska, and within the jurisdiction of this court, not being armed with a dangerous weapon, did then and there unlawfully assault one Selma Lappi by then and there unfastening some of the underclothing of the said Selma Lappi and then and there placing his hand upon the private parts of the body of the said Selma Lappi, the said Selma Lappi being then and there a female child of the age of nine years and he, the said M. F. Hall, being then and there a male person over the age of twenty-one years.

1.

The defendant has entered a plea of not guilty in this case; and you are instructed that such plea controverts and denies each and every material allegation of the indictment, and places the burden upon the Government of providing each such material allegation beyond a reasonable doubt.

2.

You are instructed that section 1905 of the Compiled [312] Laws of Alaska defines assault to be that whoever, not being armed with a dangerous weapon, unlawfully assaults or threatens another in a menacing manner, or unlawfully strikes or wounds another.

3.

You are instructed that the indictment is a mere accusation and is not in itself evidence of the de-

fendant's guilt; and the defendant is presumed to be innocent until his guilt is established to your satisfaction beyond a reasonable doubt, and such presumption of innocence accompanies the defendant throughout the trial until his guilt is so established.

## 4.

You are instructed that in a criminal case, the Judge and jury of this court have important, though separate, functions to perform.

It is your duty to hear all the evidence, all of which is addressed to you, and to decide thereupon all questions of fact. It is the duty of the Judge of this court, on the other hand, to instruct you upon the law applicable to the facts and evidence in this case, and the statute makes it your duty to accept as law what is laid down as such by the Court in these instructions.

## 5.

You are instructed that an assault may be committed without inflicting any personal injury.

An intent to do violence is an essential ingredient to the offense; but the degree of violence, of course, is immaterial.

The wrongful and unlawful touching of the person of another is an assault.

## 6.

You are instructed that the term "reasonable doubt," as defined by the law and used in these instructions, is that state of the case which, after a careful comparison and consideration of all the evidence in the case, leaves the minds of the [313] jury in that condition that they cannot feel an abid-

ing conviction, to a moral certainty, of the truth of the charge.

The term "reasonable doubt" does not mean any doubt; but such doubt must be actual and substantial, as contra distinguished from mere vague apprehension, and must arise out of the evidence, or from a want of evidence, or from both such sources.

A reasonable doubt is not a mere whim, but is such a doubt as arises from a careful and honest consideration of all the evidence, or lack of evidence, in the case; and the evidence is sufficient to remove all reasonable doubt when it convinces the judgment of ordinarily prudent men of the truth of a proposition with such force that they would act upon the conviction without hesitation in their own most important affairs of life.

7.

The defendant is presumed to be innocent of the charge against him until he is proven guilty beyond a reasonable doubt by the evidence produced in this case and submitted to you. This presumption of innocence is a right guaranteed to the defendant by the law and remains with him and should be given full force and effect by you until such time in the progress of this case as you are satisfied of his guilt from the evidence beyond a reasonable doubt.

8.

You should not consider any evidence sought to be introduced but excluded by the court, nor should you consider any evidence that has been stricken by the Court from the record, nor should you take into



account in making up your verdict any knowledge or information known to you not derived from the evidence given upon the witness-stand.

## 9.

You are instructed that you are the sole judges of all questions of fact, and of the effect of the evidence, and the weight to be given to the testimony of the witnesses; but your [314] power in this respect is not arbitrary, but is to be exercised by you with legal discretion and in subordination to the rules of evidence laid down in these instructions;

## 10.

In considering the evidence in this case, you are not bound to find a verdict in conformity with the declarations or testimony of any number of witnesses, when their evidence does not produce conviction, in your minds, against a lesser number of witnesses or other evidence which is satisfying to your minds.

## 11.

If you find that any witness has wilfully testified falsely in one part of his testimony in this case, you may distrust any part, or all, of the testimony of such witness. And, if you believe from the evidence that any witness appearing before you in this case has wilfully testified falsely, you are at liberty to reject the entire testimony of such witness; but you are not bound to reject the entire testimony of a witness because he has testified falsely in some part of his testimony; you should reject the false part, and should give to the other parts such weight as you may deem they are justly entitled to receive.



You should not fail to weigh and consider fairly and give proper effect to all testimony which you consider truthful.

## 12.

In determining the credit you will give to a witness, you should take into account the conduct and appearance of the witness upon the stand; the interest he has, if any, in the result of the trial, the motive he has in testifying, if any is shown; his relation to or feeling for or against the defendant; the probability or improbability of such witness's statements, and the opportunity he had to observe and to be informed as to the matters respecting which he gave testimony before you; and the [315] inclination he evinced, in your judgment, to speak the truth or otherwise as to matters within the knowledge of such witness. It is your duty to give the testimony of each and all of the witnesses such credit as you consider their testimony justly entitled to receive.

## 13.

You are instructed that evidence is to be estimated not only by its intrinsic weight, but also according to the evidence which it is within the power of the one side to produce, and of the other to contradict; and, therefore, if the weaker and less satisfactory evidence is offered, when it appears that stronger and more satisfactory evidence was within the power of the party offering the same, the evidence so offered should be viewed with distrust.

## 14.

You are instructed that, as a matter of law, when

the defendant testified as a witness in this case, he became as any other witness, and his credibility is to be tested and subjected to the same tests as are applied to any other witness. And, in determining the degree of credibility that shall be accorded to his testimony, you have a right to take into consideration the fact that he is interested in the result of the prosecution, as well as his demeanor and conduct upon the witness-stand during the trial, and you may also take into consideration the fact, if such be the fact,—that he has been contradicted by other witnesses. And you are further instructed, that if, after considering all the evidence in the case, you find that the defendant has wilfully and wrongfully testified falsely to any fact material to the issue in the case, you have the right to entirely disregard his testimony, except so far as his testimony is corroborated by other credible testimony.

## 15.

You are further instructed that there has been testimony given in this case on the part of the prosecution,—testimony [316] of girls of tender age, and of course you should give such weight to their evidence as in your judgment it is worth. In weighing their testimony so as to determine its reliability, you should apply to it the same tests that you do to other witnesses, and, in addition thereto, you should recall their youth and the extreme liability of children to repeat what they have heard if they have been talked to about this matter concerning which they testified. But the whole matter,—the whole question, as to what weight their testimony should receive, is

in your hands, bearing in mind these observations I have made.

## 16.

The jury are instructed that all the evidence in this case relative to the defendant and Charlotte Geis was admitted by the Court for only one purpose, and that was its bearing upon the question of the intent of the defendant regarding the acts charged in the indictment, and its consideration by the jury must be strictly limited to that purpose. It is a cardinal principal in criminal law, that a defendant cannot be convicted of one crime upon proof that at some former time he committed a similar crime.

You are instructed that unless you believe beyond all reasonable doubt from the evidence in this case, exclusive of the evidence regarding Charlotte Geis, that the defendant, at the time and place charged in the indictment, placed his hand upon the private parts of the child Selma Lappi, then you should acquit the defendant without taking into consideration the testimony concerning Charlotte Geis, or allowing it to affect your judgment. But if, from the evidence in this case, exclusive of that concerning the said Charlotte Geis, you believe beyond all reasonable doubt that the defendant at the time and place charged in the indictment placed his hand upon the private parts of the said Selma Lappi, but are in doubt whether the defendant at the time entertained [317] a criminal intent or not, in order to determine the question of intent, you may consider the testimony concerning the said Charlotte Geis, and not otherwise.

And in this connection you are further instructed



that under no circumstances should you consider the evidence concerning Charlotte Geis, nor allow it in any way to affect your judgment or verdict, unless you believe beyond all reasonable doubt that the charges made against the defendant are true, and that the defendant unlawfully assaulted her.

## 17.

In considering the testimony introduced in this case, you are instructed that you must proceed in the following manner;

First. You will eliminate from your consideration all testimony of the witness Charlotte Geis. Having so done, you will determine, from the testimony offered and introduced, whether or not the defendant committed the act charged in the indictment, in the manner and form as therein alleged, beyond a reasonable doubt. For this purpose, the testimony of the witness Charlotte Geis can be of no avail; and the same must be entirely eliminated from your consideration.

Second. If you find that the defendant did commit the assault as alleged in the indictment, beyond a reasonable doubt, then you may consider the testimony of the witness Charlotte Geis for one purpose only,—to determine whether or not her testimony beyond a reasonable doubt, proves a criminal intent on the part of the defendant, existing in his mind at the time of the assault testified to by the witness Charlotte Geis, which intent or design, abiding in the mind of the defendant, again found expression by committing an assault on Selma Lappi on the 24th day of September, 1914. The defendant is not on trial for com-



mitting an assault on Charlotte Geis; and her testimony must be considered by you only for the purpose heretofore stated.

## 18.

You are instructed that, in order to convict the defendant [318] in manner and form as he stands indicted, it is necessary for the Government to satisfy you, beyond a reasonable doubt not only that the assault upon Selma Lappi was actually committed but at the time of the alleged assault there was, beyond a reasonable doubt, an intent on the part of the defendant to commit the unlawful act charged in the indictment.

## 19.

I further instruct you, gentlemen of the jury, and caution you against conviction from prejudice or insufficient evidence. Unless you are satisfied from the evidence beyond a reasonable doubt of the guilt of the accused, you should render a verdict of not guilty, however strong may be your prejudice, if you have any.

## 20.

The jury are further instructed that the presumption of innocence is not a mere form of words that may be disregarded by the jury at pleasure, but it is an essential, substantial part of the law of the land and binding on the jury in this case. And it is the duty of the jury to give the defendant the full benefit of this presumption and to acquit the defendant unless the evidence in the case convinces you of his guilt as charged, beyond all reasonable doubt.

## 21.

You are further instructed that where two conclu-

sions can be drawn from a single circumstance, one tending to establish guilt, and the other tending towards the innocence of the accused, the law makes it your duty to accept the conclusion tending towards innocence rather than the one tending towards guilt.

## 22.

Your duty to society and to this defendant obligates each of you to give your earnest and careful attention to every [319] feature of the case now on trial before you, so that the defendant may not be unjustly convicted nor wrongfully acquitted.

Under the solemnity of your oaths as jurors, you must consider all of the evidence in the case, under the instructions of the Court, and upon the law and the evidence you must reach, if you can, a just verdict, which the law and the rights of this defendant demand of you. And, in determining the guilt or innocence of the defendant under the evidence, it becomes your duty to accept the law of the case as laid down in these instructions.

## 23.

You are finally instructed, gentlemen of the jury, that since you are the sole judges of what facts have been proven on the trial, you should not permit the remarks or expressions of opinion by counsel to influence your judgment, except as the same conform to the facts proven or are reasonably deducible from such facts and the law of the case as laid down in these instructions.

## 24.

The jury should agree on a verdict. No juror from mere pride of opinion hastily formed or expressed should refuse to agree, nor on the other hand

should he surrender any conscientious views founded on the evidence. It is the duty of each juror to reason with his fellows concerning the facts, with an honest desire to arrive at the truth, and with a view of arriving at a verdict. It should be the object of all the jury to arrive at a common conclusion, and to that end to deliberate together with calmness. It is your duty to agree upon a verdict if that be possible without a violation of conscientious convictions.

## 25.

You are instructed that the term "private parts" as charged in the indictment refer to and means sexual organs. [320]

In conformity with the law I have prepared two forms of verdict which you will take with you to your jury room, and, when you shall have unanimously agreed upon a verdict in this case, you will sign, by your foreman, that form upon which you shall have agreed, and return it into court as your verdict, and you will destroy the other form. The forms of verdict are: guilty as charged in the indictment, and not guilty.

With these forms, I hand you the written instructions which have just been read to you by the Court, for your guidance, also the indictment, both of which you will return into court with your verdict.

Dated April 22d, 1915.

CHARLES E. BUNNELL,  
District Judge.

[Indorsed]: April 22, 1915. [321]



[Caption and Title.]

**Exceptions to Instructions Given by the Court.**

The defendant excepts to instruction number 14 of the charge of the Court to the jury and the whole thereof, for the reasons:

(I) That said instruction singles out the defendant as a witness from all the other witnesses testifying in said case and comments to the jury upon the evidence of said defendant as a witness in a way that calls particular attention to the said defendant as such witness.

(II) That the Court tells the jury in said instruction that they are to consider in effect that they are to apply a different standard for weighing and determining the credibility of such witness, and of determining whether or not they will disregard his whole evidence, provided they believe him to have testified falsely in any material matter, than they apply to other witnesses in the case.

(III) That said instruction is inconsistent with instruction number II of said charge, for the reason that instruction number II the jury are told that if they believe from the evidence that any witness appearing before them has wilfully testified falsely they are at liberty to reject the entire testimony of such witness; but they are not bound to reject the entire testimony of such witness because he has testified falsely in some parts of his testimony, but they are further told that they should give to the parts such weight as they may deem they are justly entitled [322] to receive. In instruction number 14, however, the jury are instructed that if “after



considering all the evidence in the case you find that the defendant has wilfully and wrongfully testified falsely to any fact material to the issue in the case, you have a right to entirely disregard his testimony except in so far as his testimony is corroborated by other creditable testimony.”

(IV) That said instruction number 14 not only gives the jury a different standard by which to determine whether or not they shall disregard all the defendant's testimony, if they believe him to have testified falsely in any material matters than that to be used in determining the same question regarding the testimony of other witnesses; but said instruction numbr 14 is calculated to lead the jury by reason of the special comments of the Court upon the testimony of the defendant to believe that the Court thinks and considers the testimony of the defendant untruthful in regard to some material matters testified to by him.

The defendant excepts to the instructions as a whole, as read to the jury, for the reason that nowhere in said instructions are the jury correctly informed and instructed as to the exact nature of the charge for which the defendant is on trial, especially in view of the testimony offered.

MORTON E. STEVENS,

T. A. MARQUAM,

LEROY TOZIER,

Attorneys for Defendant.

The foregoing exceptions to instructions, taken in open court, in the presence of the jury, and before

the jury retired for deliberation, are allowed.

CHARLES E. BUNNELL,  
District Judge.

[Indorsed]: Filed April 24, 1915. [323]

[Caption and Title.]

**Motion in Arrest of Judgment.**

Comes now the defendant above named, and moves the Court for an order that no judgment be rendered against the defendant herein upon the verdict of guilty returned by the jury against him upon the 22d day of April, 1915, notwithstanding said verdict, upon the ground and for the reason that the judgment herein does not state facts sufficient to constitute a crime, as is more fully and particularly set forth in the demurrer to said indictment filed herein, to which reference is hereby made and made a part of this motion.

T. A. MARQUAM,  
MORTON E. STEVENS,  
LEROY TOZIER,

Attorneys for Defendant.

Service of the foregoing motion admitted and a true copy thereof received this 24th day of April, 1915.

H. E. PRATT,  
Attorney for Plaintiff.

[Indorsed]: Filed April 24, 1915. [324]

[Caption and Title.]

**Motion for a New Trial.**

Comes now the defendant in the above-entitled action and moves the Court to set aside the verdict of

“Guilty” rendered herein against the defendant, upon the 22d day of April, 1915, and grant a new trial herein for the following reasons:

First. Misconduct of the United States Attorney in his address to the jury in this case by using the following language:

“I believe that if there was ever a case proven beyond a reasonable doubt and to an absolute mathematical certainty, this is the one.”

and later in said argument by the use of the following language in his address to the jury:

“Do you want to feed the babies of this community into the jaws of Doctor Hall?”

For the reasons that the language of the prosecuting attorney first above quoted, is improper in any criminal case, and for the further reason that the language last above quoted is improper under the circumstances in this case; not based upon any evidence or reasonably deducible therefrom, and is calculated to inflame *the* prejudice the minds of the jury, and by reason of said language upon the part of the said prosecuting attorney, the defendant was prevented from having a fair trial.

Second. Error of law occurring at the trial and excepted to by the defendant in the admission of evidence, to wit:

For the error of the Court in overruling the defendant's objection to the admission of the testimony of Charlotte [325] Geis, which *tendered* to show the defendant guilty of another and separate offense, wholly independent and distinct from the offense for which he was then on trial; for the reason that the same was incompetent, immaterial and wholly inad-



missible for any purpose, or upon any correct theory applicable to this case; said alleged offense testified to by the said Charlotte Geis having occurred some thirty-four months prior to the time of the offense alleged in the indictment, and to the admitting such evidence, the defendant duly excepted.

Third. For the error of the Court in his ruling upon the motion of defendant to strike out all the testimony of Charlotte Geis in this case relative to such prior and independent offense; which motion the defendant was overruled by the Court and to which ruling the defendant then and there excepted.

Fourth. For the error of the Court in giving and reading to the jury instruction number 14 of its charge to the jury, for the reasons set out in the exception to said instruction, which exception to said instruction was allowed by the Court.

Fifth. For the reason that because of said errors of law occurring at the trial and excepted to by the defendant, and which more fully appears in the shorthand notes taken at said trial, the defendant herein was prevented from having a fair and impartial trial.

(Signed) T. A. MARQUAM,

(Signed) MORTON E. STEVENS,

(Signed) LEROY TOZIER,

Attorneys for Defendant. [326]

Service of the foregoing motion for a new trial admitted and a true copy thereof received this 24th day of April, 1915.

H. E. PRATT,

Attorney for Plaintiff.

[Indorsed]: Filed April 24, 1915. [327]



[Caption and Title.]

**Certificate to Bill of Exceptions.**

United States of America,  
Territory of Alaska,—ss.

I, the undersigned, presiding Judge at the trial of the above-entitled action, do hereby certify that the above and foregoing contains a full, true and accurate transcript of all the testimony adduced and heard at the trial thereof on the issues joined, with the objections and exceptions of said defendant to the reception and rejection of evidence, the typewritten charge of the Court to the jury and the exceptions to instruction No. 14 taken by the defendant, the motions in arrest of judgment and for a new trial, and all other matters and things occurring thereat and not otherwise of record.

And I now sign and allow the same as and for a true and correct bill of exceptions of all matters contained therein, and order the same to be refiled by the clerk of this court, and when so filed, to be and become part of the record in this cause.

Dated at Fairbanks, Alaska, this 5th day of October, 1915.

CHARLES E. BUNNELL,

District Judge.

Entered in Court Journal No. 13, page 270.

[Indorsed]: Filed October 5, 1915. [328]

[Caption and Title.]

**Assignment of Errors on Writ of Error.**

The defendant below and plaintiff in error, in this action, in connection with his petition for a writ of error, makes the following assignment of errors which he avers occurred upon trial of the action, to wit:

I.

The Court erred in admitting the evidence of the witness Charlotte Geis who testified that she visited the offices of the defendant about thirty-four months before the offense alleged in the indictment herein and that the defendant committed then and there an assault upon her person in the same way and manner as that alleged in the indictment herein to have been committed upon the person of Selma Lappi, the complaining witness herein, by taking the said Charlotte Geis upon his lap and placing his hand upon her sexual organs, and in particular that part of the evidence of the said Charlotte Geis, as follows:

to the introduction of which evidence defendant duly objected and the Court overruled the objection whereupon defendant duly excepted and exception was allowed by the Court.

II.

The Court erred in denying the motion of defendant made at the close of the testimony of said Charlotte Geis, to strike out all the testimony of the said witness relating to a prior and independent alleged offense committed upon the said Charlotte Geis,

similar to the offense alleged in the indictment herein, which [329] motion being by the Court denied, was duly excepted to as to said denial, by the defendant and exception allowed by the Court.

### III.

That the Court erred in giving and reading to the jury instruction numbered fourteen, as follows:

#### 14.

You are instructed that, as a matter of law, when the defendant testified as a witness in this case, he became as any other witness, and his credibility is to be tested and subjected to his testimony, you have a right to take into consideration the fact that he is interested in the result of the prosecution, as well as his demeanor and conduct upon the witness stand during the trial, and you may also take into consideration the fact,—if such be the fact,—that he has been contradicted by other witnesses. And you are further instructed that if, after considering all the evidence in the case, you find that the defendant has wilfully and wrongfully testified falsely to any fact material to the issue in the case, you have the right to entirely disregard his testimony, except so far as his testimony is corroborated by other credible testimony.

which instruction was duly excepted to by defendant, and exception allowed by the court.

### IV.

The Court erred in denying the motion of defendant in arrest of judgment, to which denial defendant

duly excepted and exception allowed by the Court.  
V.

The Court erred in denying the motion for a new trial duly made by defendant, to which denial the defendant duly excepted and exception allowed by the Court. [330]

VI.

The Court erred in pronouncing sentence and rendering judgment against the defendant.

Wherefore the defendant below and plaintiff in error prays that the judgment of the District Court may be reversed.

LEROY TOZIER,

Attorney for Defendant.

Service of a copy of within assignment of errors is admitted this 31st day of May, 1915.

R. F. ROTH,

District Attorney.

[Indorsed]: Filed May 31, 1915. [331]

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[Caption and Title.]

General, March, 1915, Term. September 30, 1915.

One Hundred First Court Day.

**Order Granting Permission to File Amended  
Assignment of Errors.**

Now, at this time, R. F. Roth appearing for and on behalf of the Government and Leroy Tozier appearing for and on behalf of the defendant, upon request of counsel for defendant that he be permitted by the Court to file herein his amended assignment of errors on writ of error, and the Court having



heard counsel for the respective parties herein, and having considered and being fully advised in the premises,

IT IS ORDERED that counsel for defendant be, and he is hereby permitted to file herein his amended assignment of errors an writ of error.

CHARLES E. BUNNELL,  
District Judge.

CLERK'S NOTE: Counsel for Government notes an exception, which exception is allowed.

Entered in Court Journal No. 13, page 265. [332]

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[Caption and Title.]

**Amended Assignment of Errors on Writ of Error.**

The defendant below and plaintiff in error, in this action, in connection with his petition for a writ of error, makes the following assignment of errors which he avers occurred upon trial of the action, to wit:

I.

The Court erred in admitting the evidence of the witness Charlotte Geis who testified that she visited the offices of the defendant about thirty-four months before the offense alleged in the indictment herein and that defendant committed then and there an assault upon her person in the same way and manner as that alleged in the indictment herein to have been committed upon the person of Selma Lappi the complaining witness therein, by taking the said Charlotte Geis upon his lap and placing his hand upon her sexual organs, and in particular that part of the

evidence of the said Charlotte Geis, as follows:

“Q. How did you happen to go to Dr. Hall’s office that time Charlotte?

A. I went—(cries)—I went with my brother when he had a cut.

Q. Where was your brother cut, Charlotte?

A. (No answer, witness crying.)

Mr. STEVENS.—The defendant objects to the question and the testimony of this witness, first, for the reason that the witness has not shown herself to be competent to appreciate the obligation of an oath; second, that the testimony is immaterial, irrelevant, incompetent, and impertinent for any purpose, as it does not appear that Selma Lappi was present [333] at the time or any other person except Dr. Hall and the brother Charles; the time is not definitely fixed, and there can be no object in the testimony to be conceived by the defendant at this time, excepting an attempt on the part of the prosecution to prejudice the minds of the jury by offering some testimony that is wholly improper. I can only anticipate the object at this time. Certainly the question he asks, whether preliminary or not, is subject to the objection that I have just made.

(The objection was overruled by the Court, and the defendant reserves an exception, which exception is allowed.)

Mr. ROTH.—Q. What was the matter with Charlie at that time?

A. He had a cut in the forehead.

Q. Did you leave Dr. Hall’s office when Charles left?      A. No.

Q. How did you come to not leave?

Mr. STEVENS.—We object for the reason made to the question last objected to, and for the further reason that *not* testimony of the nature sought to be given by this witness is competent, for the reason that any conduct, whether proper conduct or improper conduct, upon the part of Dr. Hall towards this child, is wholly inadmissible under the laws, being a different person from that alleged in the indictment; for the further reason that the testimony is too remote, and there has been no showing upon the part of the Government that it is connected directly or indirectly with the offense charged in the indictment.

The COURT.—What is the purpose of the testimony, Mr. Roth?

Mr. ROTH.—The purpose of the testimony—  
(interrupted).

Mr. MARQUAM.—We object unless it appears to the Court that it is clearly admissible, we object to counsel stating the purpose of it in the presence of the jury, for the damage is done if counsel makes the statement. [334]

The COURT.—Objection overruled. (Defendant saves an exception, which exception is allowed.)

Mr. ROTH.—Q. How did you come not to leave Dr. Hall's office when Charles left?

A. I was sitting in his lap, in Dr. Hall's lap—  
(interrupted).

M. STEVENS.—We desire to be understood that our same objections go to all this testimony.



The COURT.—For the reasons heretofore assigned?

Mr. STEVENS.—Yes. And we desire an exception to the ruling of the Court allowing it to go on.

Mr. ROTH.—For the purpose of obviating the necessity of interrupting the witness, the prosecution is willing to stipulate that the objections heretofore made to the questions is made to all of the testimony to be given by this witness, and that an exception is taken and an exception allowed.

The COURT.—Very well.

Mr. ROTH.—Q. You just stated that you were sitting in Dr. Hall's lap. What did Dr. Hall say?

A. When my brother went, he said, "Sister are you coming?"

Q. Yes, all right.

A. And the doctor said, "No, she is going to stay here a little while."

Q. All right, then, did your brother go away?

A. Yes.

Q. Was the office door open or was it shut, after your—

A. I think it was shut.

Q. What kind of underclothes did you have on?

A. I didn't have any on.

Q. What kind of clothes were you wearing at that time?

A. Bloomers.

Q. How were the bloomers fastened around the legs here (indicating). [335]

A. With elastic.

Q. What did Dr. Hall do after your brother left?

A. Put his hand up under my bloomers.

Q. Where did he put his hand, Charlotte? Did he put it up here (indicating).

A. Yes.



Mr. MARQUAM.—We object to that and wish the record that at the time counsel is asking the question he is going through motions with his hands and indicating (interrupted).

The COURT.—Objection sustained.

Mr. MARQUAM.—We ask that counsel be warned not to repeat a performance of that kind.

The COURT.—Of course, Mr. Roth, you will not illustrate what the child may testify to. You should be governed entirely by what the answer of the child is.

Mr. ROTH.—It is extremely difficult to require a child to mention names. That was why I put the question the way I did.

Mr. STEVENS.—And that was wholly improper.

Mr. ROTH.—Q. Where did Dr. Hall put his hand when he put it up under your bloomers?

A. He put it on—

Q. Tell us where he put his hand.

A. Put it right down here (indicating).

Q. Did he do anything with his finger?

A. Yes. (Cries.)

Q. Where did he put his finger?

A. Right here (indicating)—(cries).

Q. Did he put it inside? A. Yes.

Q. Charlotte, let me ask you this question. What did he do with his finger after he put it inside?

[336]

A. Around like this (showing).

Q. Did he say anything to you? A. No.

Q. After that what did he do, Charlotte?

A. Nothing.

Q. How long did you stay there?

A. Not very long.

Q. Did Dr. Hall say anything to you at all?

A. I don't remember of him ever saying a thing.

Q. Was Dr. Hall treating you at that time for anything? A. Yes, I had—no.

Q. Had he treated you before?

A. Not for any other thing. but one time I had a sty on my eye and he fixed that.

Q. How long before? A. I don't remember.

Q. But at this time that you went there with Charles, was Dr. Hall treating you at that time?

A. No.

Mr. ROTH.—You may cross-examine.

#### Cross-examination.

By Mr. MARQUAM.—At this time we move that all the testimony of the witness Charlotte Geis be stricken for the reason that the same is irrelevant, incompetent and immaterial, and neither tending to prove or disprove any element of the offense charged, and is not shown to have happened within such time as could throw any light upon any element of the offense charged, and is in no way connected with this case."

(The motion is denied. Defendant saves an exception, which exception is allowed.)

#### II.

The Court erred in denying the motion of defendant made [337] at the close of the testimony of said Charlotte Geis, to strike out all the testimony of the said witness relating to a prior and independ-

ent alleged offense committed upon the said Charlotte Geis, similar to the offense alleged in the indictment herein, which motion being by the court denied was duly excepted to as to said denial, by the defendant and exception allowed by the Court.

### III.

That the Court erred in giving and reading to the jury instruction numbered fourteen, as follows:

#### 14.

You are instructed that, as a matter of law, when the defendant testified as a witness in this case, he became as any other witness, and his credibility is to be tested and subjected to the same tests as are applied to any other witness. And, in determining the degree of credibility that shall be accorded to his testimony, you have a right to take into consideration the fact that he is interested in the result of the prosecution, as well as his demeanor and conduct upon the witness-stand during the trial, and you may also take into consideration the fact—if such be the fact—that he has been contradicted by other witnesses. And you are further instructed that if, after considering all the evidence in the case, you find that the defendant has willfully and wrongfully testified falsely to any fact material to the issue in the case, you have the right to entirely disregard his testimony, except so far as his testimony is corroborated by other creditable testimony.

### IV.

The Court erred in denying the motion of defend-

ant in arrest of judgment, to which denial defendant duly excepted and exception allowed by the Court.

## V.

The Court erred in denying the motion for a new trial duly made by defendant, to which denial the defendant duly excepted [338] and exception allowed by the Court.

## VI.

The Court erred in pronouncing sentence and rendering judgment against the defendant.

WHEREFORE the defendant below and plaintiff in error prays that the judgment of the District Court may be reversed.

LEROY TOZIER,

Attorney for Defendant.

Service of a copy of the within assignment of errors is admitted this 30th day of September, 1915.

R. F. ROTH,

United States District Attorney.

[Indorsed]: Filed September 30, 1915. [339]

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[Caption and Title.]

**Notice of Application for Extension of Time.**

R. F. ROTH, United States District Attorney, Territory of Alaska, Fourth Judicial Division,

TAKE NOTICE that the defendant herein will on Friday the 28th day of May, 1915, at the hour of 2 o'clock P. M. in the courtroom of the District Court, of the Fourth Judicial Division, of the Territory of Alaska, in the town of Fairbanks, move the Court for an order extending the time of the defendant herein,



within which to prepare, file, sue out and serve this writ of error, to file his supersedeas bond, to secure the issuance and service of citation, and to otherwise perfect his procedure herein, to the 10th day of June, 1915, including said day, and will at said time, move said Court for an order staying execution and proceeding upon the judgment entered in this cause until the said 10th day of June, 1915.

LEROY TOZIER,

Attorney for Defendant.

Leave is hereby given, shortening the time for the return of said notice until 2 o'clock of the 28th day of May, 1915.

Dated at Fairbanks, Alaska, this 27th day of May, 1915.

CHARLES E. BUNNELL,

Judge.

Service of a true copy is hereby admitted this 27th day of May, 1915.

R. F. ROTH,

U. S. Dist. Atty.

[Indorsed]: Filed May 27, 1915. [340]

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[Caption and Title.]

General March, 1915, Term. Friday, May 28, 1915.

Seventy-sixth Court Day.

**Order Extending Time [to May 31, 1915, to File  
Petition for Writ of Error, etc.]**

Now, on this day, came on for hearing defendant's application for extension of time, R. F. Roth, United States Attorney, appearing in behalf of plaintiff, Leroy Tozier in behalf of defendant; after argument

thereon by the respective attorneys, M. F. Hall, the defendant herein, was duly sworn and testified in matter of application of extension of time; and the Court being fully and duly advised in the premises;

Ordered, that a further extension of time within which to prepare and file a petition for writ of error, and such other instruments as may be necessary up to the point of making application for appeal bond, be given defendant until Monday, May 31, 1915, at 10:00 o'clock A. M., the defendant in the meantime to be required to report at the United States Marshal's office, at Fairbanks, Alaska, at 10:00 o'clock each morning until said time.

CHARLES E. BUNNELL,

District Judge.

Entered in Court Journal No. 13, page 181. [341]

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[Caption and Title.]

General March, 1915, Term. Monday, May 31, 1915.

Seventy-eighth Court Day.

**Order Extending Time to [4 P. M. May 31, 1915, in  
re Petition for Writ of Error.]**

Now on this day, on motion of Leroy Tozier, attorney for defendant, R. F. Roth, United States Attorney, consenting thereto,

IT IS ORDERED that a further extension of time be granted defendant herein until 4:00 P. M. this day, in the matter of the petition for writ of error.

CHARLES E. BUNNELL,

District Judge.

Entered in Court Journal No. 13, page 184. [342]

[Caption and Title.]

**Petition for Writ of Error [and Order of Allowance].**

To the Honorable Justices of the United States Circuit Court of Appeals for the Ninth Judicial Circuit, and the Honorable CHARLES E. BUNNELL, Judge of the District Court for the Territory of Alaska, Fourth Judicial Division.

Comes now M. F. Hall, defendant below and plaintiff in error, and complains that in the record and proceedings had in the said action, and also in the rendition of the sentence and judgment in the above-entitled action in the said District Court, at the March term, 1915, thereof against the said defendant below and plaintiff in error, M. F. Hall, on the 18th day of May, 1915, manifest error having happened to the great damage of the said defendant below and plaintiff in error, whereof the said defendant below and plaintiff in error prays the Honorable Judges for the allowance of a writ of error, and for an order fixing the amount of bond to cover costs and damages in the said action, and for such other orders and processes as may cause the same to be corrected by the United States Circuit Court of Appeals for the Ninth Judicial Circuit.

Dated the 31st day of May, 1915.

LEROY TOZIER,

Attorney for Defendant Below and Plaintiff in Error.

Allowed:

CHARLES E. BUNNELL,

Judge. [343]

[Indorsed]: Filed May 31, 1915. [344]



[Caption and Title.]

General March, 1915, Term. Monday, May 31, 1915.  
Seventy-eighty Court Day.

**Order Allowing Petition for Writ of Error.**

Now, on this day, the defendant's petition for writ of error having been duly filed in said cause, said petition was allowed by the Court.

CHARLES E. BUNNELL,

District Judge.

Entered in Court Journal No. 13, page 185. [345]

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[Caption and Title.]

**Order Allowing Writ of Error and Fixing Amount of Bond.**

The said defendant in the court below and plaintiff in error, having this day filed his petition for a writ of error from the decision and judgment thereon made and entered herein, to the United States Circuit Court of Appeals for the Ninth Judicial Circuit, together with an Assignment of Errors within due time, and also praying that an order be made fixing the amount of security which the defendant below and plaintiff in error should give and furnish upon said writ of error, and that upon the giving of said security, all further proceedings of this court be suspended and stayed until the determination of said writ of error by said Circuit Court of Appeals, and said petition having this day been duly allowed;

Now, therefore, it is ORDERED, that upon the



said defendant below and plaintiff in error filing with the clerk of this court a good and sufficient bond in the sum of one thousand five hundred dollars, to the effect that said defendant below and plaintiff in error will abide by and perform the orders and judgments of the said appellate court, and on his failure so to do that the signers of the said bond will pay to the United States of America the said sum above mentioned, which bond shall in all respects conform to the requirements of chapter twenty-two, Code of Criminal Procedure, Compiled Laws of Alaska, 1912, and in particular to section 2325, of said compiled laws, which said bond shall be approved by this court, and when said bond is given and approved all proceedings under the said judgment and sentence appealed from by this writ of error shall be stayed until the termination of the said writ of [346] error by the United States Circuit Court of Appeals for the Ninth Judicial Circuit, and in the meantime the said defendant shall be entitled to his discharge from imprisonment.

Dated this 31st day of May, 1915.

CHARLES E. BUNNELL,

Judge.

Entered in Court Journal No. 13, page 185.

[Indorsed]: Filed May 31, 1915. [347]

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[Caption and Title.]

**Undertaking on Appeal.**

A judgment having been given on the 18th day of May, 1915, whereby the defendant herein, M. F.

Hall, was adjudged and found guilty of the crime of assault upon the person of one Selma Lappi, and was by the Honorable Charles E. Bunnell, Judge of the above-entitled court, sentenced and condemned to imprisonment in the Federal jail in Fairbanks, Alaska for a period of six months and to pay a fine in the sum of Five Hundred Dollars (\$500) and in default of payment of said fine, that he be imprisoned in said jail at the rate of one day for every Two Dollars of said fine, and he having appealed from said judgment and been duly admitted to bail in the sum of Fifteen Hundred Dollars.

NOW, THEREFORE, we, H. L. Hedger, dentist, and W. F. Whitely, broker, residents of the town of Fairbanks, Alaska, hereby undertake that the above-named defendant, M. F. Hall, shall in all respects abide and perform the orders and judgments of the Appellate Court upon the appeal and shall and will abide and perform the judgment appealed from, if sustained on appeal, and shall and will pay all costs of said appeal, if same be adjudged against him or if he fail to do so in any particular, that we will pay to the United States the sum of Fifteen Hundred Dollars.

WITNESS our hands and seals this 31st day of May, 1915.

M. F. HALL.

H. L. HEDGER.

W. F. WHITELEY. [348]

United States of America,  
Territory of Alaska,—ss.

H. L. Hedger and W. F. Whitely, being first duly sworn upon oath says, each for himself, that he is one of the sureties named in and who subscribed the within undertaking; that he is a resident of the Territory of Alaska; that he is not an attorney or counselor at law, marshal, clerk of any court or other officer of any court; that he is worth the sum of fifteen hundred dollars in property exempt from execution and over and above all his just debts and liabilities.

H. L. HEDGER.

W. F. WHITELY.

Taken by and acknowledged and subscribed and sworn to before me this 31st day of May, 1915.

[Seal]

CHARLES E. BUNNELL,

Judge of the District Court for the Territory of  
Alaska, Fourth Division.

Approved this 31st day of May, 1915.

CHARLES E. BUNNELL,

District Judge.

[Indorsed]: Filed May 31, 1915. [349]

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[Caption and Title.]

General March, 1915, Term. Monday, May 31, 1915.

Seventy-eighth Court Day.

**Order Approving Bond.**

Now on this day, came on for hearing the matter of the qualification of the sureties on the bond of



defendant herein, who appeared in person, and by his attorney, Leroy Tozier, the plaintiff being represented by R. F. Roth, United States Attorney; the bondsman thereon, to wit: Dr. H. L. Hedger and W. F. Whitely, were each duly sworn and examined as to the qualification as such sureties, whereupon the Court approved the bond of said defendant.

CHARLES E. BUNNELL,  
District Judge.

Entered in Court Journal No. 13, page 185. [350]

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**[Writ of Error (Copy).]**

[Caption and Title.]

The President of the United States: to the Honorable, the Judge of the District Court for the Territory of Alaska, Fourth Judicial Division, Greeting:

Because in the records and proceedings, as also in the rendition of the sentence and judgment of a plea which is in said District Court before you, between the United States of America, plaintiff, and M. F. Hall, defendant and plaintiff in error, as by his complaint appears.

We, being willing that said error, if any have been, should be duly corrected and full and speedy justice done to the parties aforesaid in this behalf, do command you if judgment be therein given that then, under your seal distinctly and openly, you send the record and proceedings aforesaid with all things concerning the same to the United States Circuit Court of Appeals for the Ninth Judicial Circuit to-



gether with this writ so that you have the same at the city of San Francisco, in the State of California, on the 30th day of June, 1915, in the said Circuit Court of Appeals to be then and there heard, that the record and proceedings aforesaid being inspected, the said Circuit Court of Appeals may cause further to be done thereof to correct that error, what of right and according to law and custom of the United States should be done.

WITNESS the Honorable EDWARD D. WHITE, Chief Justice of the Supreme Court of the United States of America, this 31st day of May, 1915.

Clerk of the District Court for the Territory of Alaska, Fourth Judicial Division.

Allowed:

CHARLES E. BUNNELL,  
District Judge.  
J. E. CLARK,

[Indorsed]: Filed May 31, 1915. [352]

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**[Citation (Copy).]**

[Caption and Title (Stricken).]

To, R. F. ROTH, United States District Attorney,  
District Court Territory of Alaska, Fourth  
Judicial Division, GREETING:

YOU ARE HEREBY CITED AND ADMONISHED on behalf of the plaintiff in error, M. F. Hall, to be and appear at a term of the United States Circuit Court of Appeals for the Ninth Judicial Circuit, to be holden in the City of San Francisco, in the State of California, on the 30th day of June, 1915,

pursuant to a writ of error filed in the clerk's office of the District Court for the Territory of Alaska, Fourth Judicial Division, wherein M. F. Hall is plaintiff in error and the United States of America is defendant in error, to show cause, if any there be, why the sentence and judgment in said writ of error mentioned should not be corrected and speedy justice should not be done to the plaintiff in error in that behalf.

Dated and done in open court this 31st day of May, 1915.

CHARLES E. BUNNELL,  
Judge of the District Court for Alaska, Fourth  
Division.

Service admitted this 31st day of May, 1915.

R. F. ROTH,  
United States District Attorney, Territory of  
Alaska, Fourth Judicial Division.

[Indorsed]: Filed May 31, 1915. [353]

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[Caption and Title.]

**Order Extending Time to [November 15, 1915, to]  
File Transcript [Copy].**

WHEREAS on the 31st day of May, 1915, upon application of said plaintiff in error the Court made an order extending the time within the transcript in this case should be filed in the said United States Circuit Court, at San Francisco, such extension being based upon the delays and uncertainties of the transmission of mail matter between Fairbanks, Alaska, and San Francisco, California; and,

WHEREAS, it appears that the said order has never been formally entered upon the records by the trial Court at Fairbanks, Alaska,

NOW, THEREFORE, IT IS ORDERED that the clerk of this court do now enter upon his records the order made on the said 31st day of May, 1915, in the following language, to wit:

“IT IS ORDERED that the return day on the writ of error allowed in this case on the 31st day of May, 1915, returnable on the 30th day of June, 1915, be enlarged to the 15th day of November, 1915.”

Dated, Fairbanks, Alaska, this 30th day of September, 1915.

CHARLES E. BUNNELL,  
District Judge.

Service admitted this 30th day of September, 1915.

R. F. ROTH,  
United States District Attorney.

[Indorsed]: Filed September 30, 1915. [354]

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[Caption and Title.]

**[Certificate of Clerk U. S. District Court to  
Transcript of Record.]**

United States of America,  
Territory of Alaska,  
Fourth Division,—ss.

I, J. E. Clark, Clerk of the United States District Court, Territory of Alaska, Fourth Division, do hereby certify that the foregoing, consisting of three hundred and fifty-six pages, numbered from 1 to 356,



inclusive, constitutes a full, true and correct transcript of the record on writ of error in cause No. 689—Criminal, entitled, United States of America, Plaintiff, vs. M. F. Hall, Defendant, wherein M. F. Hall is plaintiff in error, and the United States of America is defendant in error, and was made pursuant to and in accordance with the *praecipe* of the plaintiff in error filed in this action and made a part of this transcript, and by virtue of the citation issued in said cause and is the return thereof in accordance therewith.

And I do further certify that the index thereof, consisting of pages i to iv, is a correct index of said transcript on appeal; also that the costs of preparing said transcript and this certificate, amounting to One Hundred and Sixty-three Dollars (\$163), has been paid to me by counsel for plaintiff in error in said action.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said court this 15th day of October, 1915.

[Seal]

J. E. CLARK,

Clerk of the District Court, Territory of Alaska,  
Fourth Division. [356]

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[Endorsed]: No. 2678. United States Circuit Court of Appeals for the Ninth Circuit, M. F. Hall, Plaintiff in Error, vs. The United States of America, Defendant in Error. Transcript of Record. Upon Writ of Error to the United States District Court of the Territory of Alaska, Fourth Division.



Filed November 8, 1915.

F. D. MONCKTON,  
Clerk of the United States Circuit Court of Appeals  
for the Ninth Circuit.

By Meredith Sawyer,  
Deputy Clerk.

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**[Writ of Error (Original).]**

[Caption and Title (Stricken).]

[Endorsed]: Filed in the District Court, Territory of Alaska, Fourth Division, May 31, 1915. J. E. Clark, Clerk. By ————, Deputy.

The President of the United States, to the Honorable, the Judge of the District Court for the Territory of Alaska, Fourth Judicial Division,  
**GREETING:**

Because in the records and proceedings, as also in the rendition of the sentence and judgment of a plea which is in said District Court before you, between the United States of America, plaintiff, and M. F. Hall, defendant and plaintiff in error, as by his complaint appears.

We, being willing that said error, if any have been, should be duly corrected and full and speedy justice done to the parties aforesaid in this behalf, do command you if judgment be therein given that then, under your seal distinctly and openly, you send the record and proceedings aforesaid with all things concerning the same to the United States Circuit Court of Appeals for the Ninth Judicial Circuit together

with this writ so that you have the same at the city of San Francisco, in the state of California, on the 30th day of June, 1915, in the said Circuit Court of Appeals to be then and there heard, that the record and proceedings aforesaid being inspected, the said Circuit Court of Appeals may cause further to be done thereof to correct that error, what of right and according to law and custom of the United States should be done.

WITNESS the Honorable EDWARD D. WHITE, Chief Justice of the Supreme Court of the United States of America, this 31st day of May, 1915.

J. E. CLARK,

Clerk of the District Court for the Territory of  
Alaska, Fourth Judicial Division.

Allowed:

CHARLES E. BUNNELL,

District Judge.

[Endorsed]: No. 2678. United States Circuit Court of Appeals for the Ninth Circuit. M. F. Hall, Plaintiff in Error, vs. The United States of America, Defendant in Error. Writ of Error. Filed Nov. 8, 1915. F. D. Monckton, Clerk.

**[Citation (Original).]**

[Caption and Title (Stricken).]

[Endorsed]: Filed in the District Court, Territory of Alaska, Fourth Division. J. E. Clark, Clerk.  
By —————, Deputy.

To R. F. ROTH, United States District Attorney,  
District Court Territory of Alaska, Fourth  
Judicial Division, Greeting:

YOU ARE HEREBY CITED AND ADMON-  
ISHED on behalf of the plaintiff in error, M. F. Hall,  
to be and appear at a term of the United States Cir-  
cuit Court of Appeals for the Ninth Judicial Circuit,  
to be holden in the city of San Francisco, in the  
State of California, on the 30th day of June, 1915,  
pursuant to a writ of error filed in the clerk's office  
of the District Court for the Territory of Alaska,  
Fourth Judicial Division, wherein M. F. Hall is  
plaintiff in error and the United States of America  
is defendant in error, to show cause, if any there be,  
why the sentence and judgment in said Writ of Er-  
ror mentioned should not be corrected and speedy  
justice should not be done to the plaintiff in error in  
that behalf.

Dated and done in open court this 31st day of May,  
1915.

CHARLES E. BUNNELL,  
Judge of the District Court for Alaska, Fourth Divi-  
sion.

Service admitted this 31st day of May, 1915,

R. F. ROTH,  
United States District Attorney, Territory of  
Alaska, Fourth Judicial Division.

[Indorsed]: No. 2678. United States Circuit Court of Appeals for the Ninth Circuit. M. F. Hall, Plaintiff in Error, vs. The United States of America, Defendant in Error. Citation on Writ of Error. Filed Nov. 8, 1915. F. D. Monckton, Clerk.

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[Caption and Title.]

**Order Extending Time to [November 15, 1915, to]  
File Transcript.**

[Endorsed]: Filed in the District Court, Territory of Alaska, 4th Div. Sep. 30, 1915. J. E. Clark, Clerk. Sidney Stewart, Deputy.

WHEREAS, on the 31st day of May, 1915, upon application of said plaintiff in error the Court made an order extending the time within which the transcript in this case should be filed in the said United States Circuit Court, at San Francisco, such extension being based upon the delays and uncertainties of the transmission of mail matter between Fairbanks, Alaska, and San Francisco, California; and,

WHEREAS, it appears that the said order has never been formally entered upon the records by the trial court at Fairbanks, Alaska,

NOW, THEREFORE, IT IS ORDERED that the clerk of this court do now enter upon his records the order made on the said 31st day of May, 1915, in the following language, to wit:

“IT IS ORDERED that the return day on the Writ of Error allowed in this case on the 31st day of May, 1915, returnable on the 30th day of June, 1915, be enlarged to the 15th day of November, 1915.”



Dated, Fairbanks, Alaska, this 30th day of September, 1915.

CHARLES E. BUNNELL,

District Judge.

Service admitted this 30th day of September, 1915.

R. F. ROTH,

United States District Attorney.

Entered in Court Journal No. 13, page 265.

[Endorsed]: No. 2678. United States Circuit Court of Appeals for the Ninth Circuit. M. F. Hall, Plaintiff in Error, vs. The United States of America, Defendant in Error. Order Under Rule 16 Enlarging Time to Nov. 15, 1915, to File Record Thereof and to Docket Case. Filed Nov. 8, 1915. F. D. Monckton, Clerk.

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[Caption and Title.]

**Stipulation as to Printing Record [Original].**

[Endorsed]: Filed in the District Court, Territory of Alaska, 4th Div. Oct. 6, 1915. J. E. Clark, Clerk. Sidney Stewart, Deputy.

It is stipulated between the attorneys for the parties respectively, that in printing the record in this case for use in the said court, all captions should be omitted after the title of the cause has been once printed, and the words "Caption and Title" and the name of the paper or document should be substituted therefor; also, that after printing the indorsements and file-marks on the indictment, bill of exceptions, record in the Appellate Court, the in-

dorsements other than file-marks on all other papers should be omitted, and the word "Indorsements" printed in lieu thereof.

All other parts of the record should be printed.

Dated October 6, 1915.

LEROY TOZIER,

Attorney for Plaintiff in Error.

R. F. ROTH,

United States District Attorney for Defendant in Error.

[Endorsed]: No. 2678. United States Circuit Court of Appeals for the Ninth Circuit. M. F. Hall, Plaintiff in Error, vs. The United States of America, Defendant in Error. Stipulation as to Printing Record. Filed Nov. 8, 1915. F. D. Monckton, Clerk.